DOCUMENT RESUME

ED 471 667 CG 031 947

AUTHOR	Schleifer, Rebecca
TITLE	Ignorance Only: HIV/AIDS, Human Rights, and Federally Funded Abstinence-Only Programs in the United States. Texas: A Case Study.
INSTITUTION	Human Rights Watch, New York, NY.
REPORT NO	G1405
PUB DATE	2002-09-00
NOTE	50p.
AVAILABLE FROM	Human Rights Watch, 350 Fifth Ave., 34th Floor, New York, NY 10118-3299 ($5). Tel.: 212-290-4700; Web site: http://www.hrw.org. For full text: http://hrw.org/reports/2002/usa0902/.
PUB TYPE	Collected Works - Serials (022) -- Reports - Research (143)
JOURNAL CIT	Human Rights Watch; v14 n5 Sep 2002
EDRS PRICE	EDRS Price MF01/PC03 Plus Postage.
DESCRIPTORS	*Acquired Immune Deficiency Syndrome; Adolescents; *Condoms; *Federal Programs; Prevention; *Safe Sex; *Sex Education; *Sexual Abstinence; Sexually Transmitted Diseases
IDENTIFIERS	Texas

ABSTRACT

This report contends that programs teaching teenagers to "just say no" to sex before marriage are threatening adolescent health by censoring basic information about how to prevent HIV/AIDS. The report focuses on federally funded "abstinence-only-until-marriage" programs in Texas, where advertising campaigns convey the message that teenagers should not use condoms because they don't work. Some school-based programs in Texas do not mention condoms at all. Federal health agencies share the broad scientific consensus that condoms, when used correctly, are highly effective in preventing the transmission of HIV. Yet the U.S. government currently spends more than $100 million each year on "abstinence-only-until-marriage" programs, which cannot by law "promote or endorse" condoms or provide instruction regarding their use. This report concludes that federally funded abstinence-only programs, in keeping with their federal mandate, deny children basic information that could protect them from HIV/AIDS infection and discriminate against gay and lesbian children. In so doing, it is argued that these programs not only interfere with fundamental rights to information, to health and to equal protection under the law. (GCP)

Reproductions supplied by EDRS are the best that can be made
from the original document.

ED 471 667

UNITED STATES

350 Fifth Ave 34th Floor
New York, N.Y. 10118-3299
http://www.hrw.org
(212) 290-4700

Vol. 14, No. 5 (G) – September 2002

U.S. DEPARTMENT OF EDUCATION
Office of Educational Research and Improvement
EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC)
☐ This document has been reproduced as received from the person or organization originating it.
☐ Minor changes have been made to improve reproduction quality.
• Points of view or opinions stated in this document do not necessarily represent official OERI position or policy.

Before [the abstinence only program], I could say, "If you're not having sex, that's great. If you are, you need to be careful and use condoms." Boy, that went out the window.

Sally Fleming [pseudonym],
Teacher
McLennan County, Texas
May 4, 2002

PERMISSION TO REPRODUCE AND DISSEMINATE THIS MATERIAL HAS BEEN GRANTED BY

P MAGES

TO THE EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC)

1

IGNORANCE ONLY

HIV/AIDS, HUMAN RIGHTS AND FEDERALLY FUNDED ABSTINENCE-ONLY PROGRAMS IN THE UNITED STATES

TEXAS: A CASE STUDY

1630 Connecticut Ave, N.W., Suite 500
Washington, DC 20009
TEL (202) 612-4321
FAX (202) 612-4333
E-mail: hrwdc@hrw.org

2nd Floor, 2-12 Pentonville Road
London N1 9HF, UK
TEL: (44 20) 7713 1995
FAX: (44 20) 7713 1800
E-mail: hrwuk@hrw.org

15 Rue Van Campenhout
1000 Brussels, Belgium
TEL (32 2) 732-2009
FAX (32 2) 732-0471
E-mail: hrwbe@hrw.org

CG031947

BEST COPY AVAILABLE

September 2002 Vol. 14, No. 5 (G)

UNITED STATES

IGNORANCE ONLY
HIV/AIDS, HUMAN RIGHTS AND FEDERALLY FUNDED ABSTINENCE-ONLY PROGRAMS IN THE UNITED STATES

TEXAS: A CASE STUDY

Table of Contents

I. SUMMARY 3

II. RECOMMENDATIONS 5
To the United States Government 5
To the Government of Texas 5
To Other State Governments 5
To State education and health authorities 6
To local communities throughout the United States 6
To local school districts throughout the United States 6

III. METHODS 7

IV. BACKGROUND: HIV/AIDS Among Young People in the United States 7
HIV/AIDS in Texas 8

V. FEDERAL FUNDING FOR ABSTINENCE-ONLY EDUCATION 9
Research on Effectiveness of Abstinence-Only Education 13
Texas Abstinence-Only Education Programs 16

VI. IMPEDING ACCESS TO INFORMATION ABOUT HIV/AIDS PREVENTION 19
Consequences of Texas' Abstinence Programs 19
Restricting Information About Condoms 19
Restricting Access to Experts on HIV/AIDS Prevention 21
Misinformation About Condoms 23
Pledging Virginity to Prevent Disease, and "Renewed Virginity" 26
Referrals for Other Information 28
Crowding Out Other Sources of AIDS Information 28
Federal Review of HIV/AIDS Prevention Programs 33

VII. DISCRIMINATION BASED ON GENDER AND SEXUAL ORIENTATION 34

VII. LEGAL STANDARDS 40
International Law 41
Right to the Highest Attainable Standard of Health 41
Right to Life 42
Right to Information 43
Right to Nondiscrimination and Equal Protection, Right to Education, Right to Privacy 43
National Law 44

IX. CONCLUSION 46

ACKNOWLEDGMENTS 47

I. SUMMARY

Before [the abstinence only program], I could say, "If you're not having sex, that's great. If you are, you need to be careful and use condoms." Boy, that went out the window.

Sally Fleming [pseudonym], teacher, McLennan County, Texas, May 4, 2002

I don't know any other way but abstinence to prevent HIV.

Linda P., sixteen-year-old student at Sally Fleming's high school, McLennan County, Texas, May 2, 2002

Each year, hundreds of teenagers in the United States contract HIV (human immunodeficiency virus), the virus that causes acquired immune deficiency syndrome or AIDS. Experts report that in recent years, there has been a lowering of the median age of HIV onset in the United States. And, while the overall incidence of AIDS among all U.S. populations declined during the 1990s, there has been no comparable decline in the number of newly diagnosed cases among young people.

There is no vaccine to prevent HIV/AIDS, and the best treatment does not constitute a cure. U.S. government institutions responsible for setting public health standards have therefore repeatedly and strongly urged that providing complete and accurate information to adolescents about HIV/AIDS prevention, including the proper use of condoms as a means to reduce the risk of HIV transmission, be an important part of the government's prevention efforts.

The Bush Administration is nonetheless advocating for a substantial increase in funding for "abstinence-only-until-marriage" programs, which portray abstaining from sexual activity until marriage as the only acceptable behavior for youth, where marriage is defined exclusively as heterosexual marriage in a traditional nuclear family. These programs cannot by law "promote or endorse" condoms or provide instruction regarding their use and cannot provide HIV/AIDS education sensitive to the rights and needs of gay, lesbian and bisexual youth. Consequently, they deny adolescents basic information that could prevent the spread of HIV/AIDS.

Federally funded abstinence-only programs interfere with fundamental rights guaranteed by international law, including the right to "seek, receive and impart information and ideas of all kinds" and the right to the highest attainable standard of health, and, indeed, may have dire consequences on the right to life. The failure to provide accurate information about prevention of HIV transmission needlessly puts children at risk of contracting this devastating and fatal disease.

HIV/AIDS educators from public health departments in Texas told Human Rights Watch that they have been limited in their capacity to provide complete HIV/AIDS prevention education in schools with federally funded abstinence-only education programs. Teachers whose school districts have adopted abstinence-only curricula provided by federally funded programs reported that they were restricted in providing information about condoms that they had been able to provide prior to the adoption of the abstinence-only curriculum. Teachers in Laredo, Texas' abstinence-only program reported that they do not discuss condom use at all.

Other Texas abstinence-only programs provide information that asserts that condoms are ineffective in preventing HIV transmission, thereby running the risk of encouraging people to forgo condom use who may not forgo having sex. Teachers and administrators in one Texas school district with an abstinence-only program told Human Rights Watch that they "don't discuss condom use, except to say that condoms don't work," and described an activity to teach students about condoms' ineffectiveness. One abstinence-only media campaign for youth includes radio and television advertisements that suggest that it is a lie to teach children that condoms protect against many sexually transmitted diseases. A counselor from Planned Parenthood told Human Rights Watch that teenage patients had told her that they had learned on television that "condoms aren't as safe as everybody seems to think," and that their boyfriends had told them that they had heard on the radio that "condoms don't work." A

county government HIV/AIDS counselor told Human Rights Watch that an adult injecting drug user told her that he did not use condoms because he heard on television that they did not work.

Federal law requires that federally funded abstinence-only education programs (1) teach that a "mutually faithful monogamous relationship in context of marriage is the expected standard of human sexual activity," that "sexual activity outside of the context of marriage is likely to have harmful psychological and physical effects," and that "bearing children out-of-wedlock is likely to have harmful consequences for the child, the child's parents, and society," and (2) may not provide any information inconsistent with this instruction. Teachers and administrators in Texas' abstinence-only programs told Human Rights Watch that they either omit discussion of homosexuality altogether, or mention it only as a risk factor for HIV/AIDS. As one teacher told Human Rights Watch, "We don't talk about homosexuality in a love relationship. We bring it up in certain STDs [sexually transmitted diseases] that are more common among homosexuals. People in a homosexual relationship are more apt to catch AIDS because anal sex is risky."

Federally funded abstinence-only programs potentially harm all youth by suppressing important HIV prevention information. By their terms, they discriminate against gay and lesbian youth in additional ways. Given that same-sex couples may not legally marry in any U.S. state, abstinence-only programs implicitly teach that there are *no safe* ways for gay and lesbian youth to have a sexual relationship—now or as adults—thereby reinforcing the hostile environment that gay and lesbian youth experience at school. In so doing, abstinence-only programs deny access to relevant and potentially life-saving health information to gay and lesbian youth and impede their right to an education free from discrimination.

Schools can play an important role in providing information to young people about the nature of the HIV epidemic and specific actions they can take to protect themselves from contracting the disease. Fifty-three million young people, including 95 percent of five- to seventeen-year-olds, are enrolled in nearly 117,000 primary or secondary schools throughout the country.[1] Most states mandate that education about HIV/AIDS and sexually transmitted diseases (STDs) be provided to students.[2] Depriving children of life-saving information about preventing HIV/AIDS distorts this mandate and places American children at needless risk of HIV infection.

---

[1] National Center for Education Statistics, U.S. Department of Education, *Digest of Education Statistics, 2000*, http://nces.ed.gov/pubs2001/digest/dt006.html (retrieved on July 25, 2002); Centers for Disease Control and Prevention, *Healthy Youth: An Investment in Our Nation's Future* (Atlanta, Georgia: Centers for Disease Control and Prevention, 1999); *see also* Douglas Kirby and Karin Coyle, "School-based Programs to Reduce Sexual Risk-Taking Behavior," *Children and Youth Services Review*, vol. 19, no. 5/6 (1997), pp. 415-436.

[2] Thirty-eight states mandate that schools provide HIV/AIDS and STD education, while twenty-two states require broader sexuality education. Alan Guttmacher Institute, *State Policies in Brief*, February 1, 2002.

BEST COPY AVAILABLE

II. RECOMMENDATIONS

To the United States Government

- Repeal abstinence-only-until-marriage legislation and enact in its place legislation supporting comprehensive sex education that would include information and instruction about HIV/AIDS prevention, including the use of condoms for this purpose.

- The Department of Health and Human Services (DHHS) should amend its guidance on abstinence-only education programs to require programs to provide complete and accurate information about HIV/AIDS prevention, including instruction about the use of condoms for this purpose.

- Federal government agencies, including DHHS and the Centers for Disease Control and Prevention (CDC), should ensure that adequate resources are directed toward HIV/AIDS prevention programs for youth.

- Federal government agencies, including DHHS and CDC, should give priority in funding to adolescent HIV/AIDS prevention and sex education programs that do not discriminate against gay, lesbian and bisexual youth, and should provide technical assistance to states, school districts and local communities to implement such HIV/AIDS prevention and sex education programs.

- Federal government agencies, including DHHS and CDC, should take specific steps to improve coordination of HIV/AIDS prevention and sex education efforts among federal agencies and to expand training and technical assistance to support collaboration among state and local education agencies and other state and local organizations that work with youth.

To the Government of Texas

Texas should take action to protect children's right to information about HIV/AIDS, right to the highest attainable standard of health and right to be free from discrimination based on sexual orientation. To this end, Texas lawmakers should take the following legislative action:

- Amend Texas Education Code § 28.004 to require that courses on human sexuality, HIV/AIDS, and sexually transmitted diseases include scientifically accurate information on condoms as a means of HIV/AIDS prevention.

- Revise the state education code to ensure that teachers, administrators and other local officials are not permitted to restrict important information about HIV/AIDS prevention, including information about appropriate condom use.

- Repeal Texas Health & Safety Code § 163.002(8), which states that course materials and instruction in the state's model public health education curriculum relating to sexuality or sexually transmitted diseases should include "emphasis, provided in a factual manner and from a public health perspective, that homosexuality is not a lifestyle acceptable to the general public and that homosexual conduct is a criminal offense" under state law.

To Other State Governments

All states should take action to protect children's right to information about HIV/AIDS, right to the highest attainable standard of health and right to be free from discrimination based on sexual orientation. To this end, state governments should take the following action:

- Repeal state abstinence-only legislation and enact in its place legislation supporting comprehensive sexuality education that would include information about the proper use of condoms to prevent HIV/AIDS.

- Revise the state education code to ensure that teachers, administrators and other local officials are not permitted to restrict important information about HIV/AIDS prevention, including information about appropriate condom use.

- Repeal laws and regulations that prevent teachers and service providers from including information relevant to lesbian, gay and bisexual youth in health education on sexuality and sexually transmitted diseases.

To State education and health authorities

- State health and education authorities should provide technical and curricular support to local school districts to assist them in providing complete and accurate information about HIV/AIDS prevention.

To local communities throughout the United States

- Implement education programs and curricula that include complete and accurate information for preventing HIV/AIDS.

- Repeal laws that prohibit using these curricula.

To local school districts throughout the United States

- Provide age-appropriate information to students that adequately addresses HIV/AIDS prevention measures, including complete and accurate information about condoms.

- Include information that is specific to the needs of lesbian, gay and bisexual youth in health education on sexuality and sexually transmitted diseases. Such information should be integrated into the regular curriculum and should not be presented with the implicit message that being gay, lesbian or bisexual is itself a health problem.

- Ensure that teachers, school nurses, guidance counselors, school social workers and school psychologists are trained to provide complete and accurate information about HIV/AIDS prevention and about issues related to sexual orientation.

III. METHODS

Federally funded abstinence-only programs exist in all fifty states and this research could have been conducted in any of them. We chose Texas as the case study for this report because a substantial share of federal abstinence-only funding goes to support programs in that state, and Texas has actively promoted abstinence-only programs statewide. Texas' programs also command nationwide influence.[3]

Human Rights Watch conducted research for this report in Texas in April and May 2002. We made additional contacts with key informants both before and after this period by telephone or electronic mail from New York.

Human Rights Watch conducted face-to-face interviews with the directors and several staff members of four Texas-based federally funded abstinence-only programs, face-to-face and telephone interviews with teachers, counselors, administrators and students connected with these programs, and face-to-face interviews with school officials both in districts that had adopted the federally funded abstinence-only programs and in one district that had opted out of the program.

In addition, Human Rights Watch conducted face-to-face and/or telephone interviews with representatives from state and federal health and education agencies and nongovernmental health and education service providers that work on HIV/AIDS, abstinence education and adolescent health issues in Texas and nationwide as well as Texas-based academics who study these issues. Human Rights Watch also interviewed representatives of lesbian and gay organizations located in communities that have federally funded abstinence-only programs and sexuality educators who work outside of federally funded abstinence-only programs.

Most of the in-person interviews with adults took place at their respective work sites (offices or classrooms), although some adults were interviewed in places away from their work sites to protect their anonymity. Children were interviewed in public settings (such as a book store and a convention center), except for two children who were interviewed in a private setting. The interviews were generally open-ended and covered many aspects of the issue. The names of all children have been changed to protect their privacy.[4] In addition, we did not name school district employees (teachers and counselors) when they requested anonymity.

IV. BACKGROUND: HIV/AIDS AMONG YOUNG PEOPLE IN THE UNITED STATES

Disease syndromes linked to the human immunodeficiency virus first caught the attention of the medical establishment in the U.S. in 1981. In the early years of the epidemic, the disease was associated in the minds of the public and of many experts with gay men and was even referred to as gay-related immunodeficiency disease.[5] Over the years, though HIV prevalence in the U.S. overall has remained very low, HIV/AIDS became established more widely among young adults, particularly racial and ethnic minorities. For example, since 1991 AIDS has

---

[3] Two of Texas' programs (McCAP and Fort Bend Alert, Inc.) were chosen to be among the eleven participants in the congressionally mandated evaluation of abstinence-only programs presently underway. *See* Mathematica Policy Research Institute, Inc., *The Evaluation of Abstinence Education Programs Funded Under Title V Section 510: Interim Report* (2002) (prepared under contract with U.S. DHHS). Dr. Joe McIlhaney, the president of the Medical Institute for Sexual Health in Austin, Texas, was one of three people who testified in Congress in April 2002 with respect to reauthorization of abstinence-only legislation and is on the President's Advisory Council on HIV/AIDS. Scott & White's Sex Education Program produces curriculum materials that are used nationwide.

[4] In this report, the word "child" refers to anyone under the age of eighteen. The Convention on the Rights of the Child defines children as "Every human being under the age of eighteen years unless, under the law applicable to the child, majority is attained earlier." Convention on the Rights of the Child, art. 1.

[5] Laurie Garrett, *The Coming Plague: Newly Emerging Diseases in a World Out of Order* (New York: Penguin Books, 1994), pp. 292-293.

been the leading cause of death among African-American men aged twenty-five to forty-four, indicating that many infections are occurring in this group before age twenty-five.[6]

As a disease of young adults, HIV/AIDS calls for prevention strategies that target young people. The Centers for Disease Control and Prevention note that even though the incidence of AIDS declined overall during most of the 1990s, there was no decline in the number of new HIV cases among young people.[7] Other experts have noted that at least through the early-1990s, the median age of HIV infection has dropped steadily from about thirty-four to about twenty-five.[8] The Centers for Disease Control continue to emphasize strongly the centrality of young people and especially youth in schools as a target group for prevention efforts.[9]

Young African-Americans and Hispanics are heavily affected by the HIV/AIDS epidemic. African-Americans represent only 12 percent of the U.S. population, but 38 percent of new AIDS cases while Latinos represent 12 percent of the U.S. population, but 18 percent of new AIDS cases.[10] The rates of infection have increased dramatically among young African-American and Hispanic women. A recent study found that the number of African-American women age eighteen to twenty-seven living with HIV infection rose 40 percent from 1988 to 1993.[11] Data from the Centers for Disease Control reveal that African-American women and Latina women, who comprise less than 25 percent of all U.S. women, account for 75 percent of cumulatively reported HIV cases among young women ages thirteen to twenty-four.[12]

HIV/AIDS in Texas

Human Rights Watch conducted the research for this report in Texas counties that include significant African-American and/or Hispanic communities. Texas has the fourth largest population of people living with HIV/AIDS in the U.S.[13] African-Americans and Latinos in Texas, as in the rest of the United States, comprise a disproportionate share of the state's cases of HIV and AIDS. Overall, 37 percent of people with AIDS and 41 percent with HIV are African-American; 25 percent of people with AIDS and 20 percent of people with HIV are Hispanic. In the fifteen-to-nineteen age bracket, African-Americans account for 57 percent of AIDS cases and 64 percent of HIV infections, while Latinos account for 35 percent of AIDS cases and 18 percent of HIV infections.[14]

---

[6] Centers for Disease Control and Prevention, *Young People at Risk: HIV/AIDS Among America's Youth*, http://www.cdc.gov/hiv/pubs/facts/youth.htm (retrieved on August 7, 2002).

[7] Ibid.

[8] Philip S. Rosenberg, et al., "Declining Age at HIV Infection in the United States," *The New England Journal of Medicine*, vol. 330, no. 11, March 17, 1994, p. 789; *see also* Philip S. Rosenberg and Robert J. Biggar, "Trends in HIV Incidence Among Young Adults in the United States," *Journal of the American Medical Association*, vol. 279, June 17, 1998, pp. 1894-1899.

[9] Centers for Disease Control and Prevention, *Young People at Risk: HIV/AIDS Among America's Youth*, http://www.cdc.gov/hiv/pubs/facts/youth.htm (retrieved on August 7, 2002).

[10] Centers for Disease Control and Prevention, *HIV/AIDS Surveillance Report: Midyear Edition*, vol. 13, no. 1 (2001), p. 14; U.S. Census Bureau, *Resident Estimates of the United States by Sex, Race, and Hispanic Origin: April 1, 1990 to July 1, 1999, with Short-term Projection to November 1, 2000*. http://eire.census.gov/popest/archives/national/nation3/intfile3-1.txt (retrieved August 23, 2002).

[11] Rosenberg and Biggar, "Trends in HIV Incidence Among Young Adults in the United States," pp. 1894-1899.

[12] Centers for Disease Control and Prevention, *HIV/AIDS Surveillance Report: Midyear Edition* , vol. 13, no. 1 (2001), p. 15; Centers for Disease Control and Prevention, *HIV/AIDS Among U.S. Women: Minority and Young Women at Continuing Risk* (Atlanta, Georgia: U.S. Centers for Disease Control and Prevention, May, 2002).

[13] Centers for Disease Control and Prevention, *HIV/AIDS Surveillance Report: Midyear Edition*, vol. 13, no. 1 (2001), p. 5.

[14] Texas Department of Health, *Texas HIV/STD Surveillance Report: Annual Report 2000*, December 31, 2000, pp. 4-5.

V. FEDERAL FUNDING FOR ABSTINENCE-ONLY EDUCATION

The federal government currently provides $100 million annually to support "abstinence-only-until-marriage" education programs.[15] These programs portray abstaining from sexual activity until marriage as the only acceptable behavior for youth, where marriage is defined exclusively as heterosexual marriage in a traditional nuclear family. The Bush Administration has been advocating for an increase in federal funding for these programs to $135 million.[16]

The bulk of federal funding for abstinence-only programs comes from the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (commonly known as the Welfare Reform Act), which created an entitlement program that allocated an annual appropriation of $50 million per year for abstinence-only education for fiscal years 1998 through 2002. Known as "Section 510(b)" funds after the provision of the Social Security Act affected by the Welfare Reform Act, these monies are provided to states, which must contribute three dollars for every four federal dollars that they receive under this program.[17] The states in turn distribute the money in a range of different ways. In some states the department of health has primary authority over the program, while in others the governor's office has this authority; in some states authority is shared between the governor's office and the department of health. With these monies, the states fund a wide variety of activities, including media campaigns, school-based programs and community-based projects.[18]

Section 510(b) funds are only the latest of three federally funded abstinence-only programs. The federal government first appropriated federal funds for abstinence education in 1981 with the passage of the Adolescent Family Life Act (AFLA).[19] The Act provides grants for services to "prevent adolescent sexual relations" by "promot[ing] self discipline and other prudent approaches to the problem of adolescent premarital sexual relations, including adolescent pregnancy," and directs that projects funded "make use of support systems such as

---

[15] Although in the U.S., state and local school districts have the primary responsibility for education, the federal government plays an important role in local education policy when it chooses to do so. As the U.N. Special Rapporteur on the Right to Education has observed, "Federal funding encourages and facilitates change in the chosen direction, and federal enforcement powers keep education within the law-and-policy framework." *Report Submitted by Katarina Tomaševski, Special Rapporteur on the Right to Education Mission to the United States of America 24 September – 10 October 2001*, Commission on Human Rights, 58th sess. of the provisional agenda, Economic, Social and Cultural Rights, U.N. Doc. E/CN.4/2002/60 Add.1 (February 2002), para. 13.

While there is no federal program that supports comprehensive sexuality education as such, the CDC's school health education program, which may support school-based education programs that include discussion of both abstinence and condom use, received $50 million for HIV prevention efforts in 2002–half as much as the federal government allocated for abstinence-only education. The percentage of these funds that directly support student education about both abstinence and risk reduction through condom use is unclear, because at least some of the CDC HIV prevention funds support abstinence-only programs; and, further, the funds also support a wide range of activities, such as training teachers and school personnel in HIV prevention, monitoring risk behaviors among students, and program evaluation. *See* Section VI below.

[16] The White House, "President Announces Welfare Reform Agenda," February 26, 2002, http://www.whitehouse.gov/news/releases/2002/02/20020226-11.html (retrieved on August 2, 2002).

[17] States meet the match requirement in a variety of ways: by allocating new state funds for abstinence education; by allocating existing state funds to abstinence education; and by relying on in-kind support. Some states shift the match responsibility to the local level, requiring local program providers to meet the requisite match. State Policy Documentation Project, *Summary of Policy Issues: Reproductive Health Provisions and Teen Requirements*, http://www.spdp.org/reprexpl.htm#absted (retrieved on May 31, 2002).

[18] *See* Sexuality Information and Education Council of the United States (SIECUS), *Between the Lines: States' Implementation of the Federal Government's Section 510(b) Abstinence Education Program in Fiscal year 1998* (Washington D.C.: SIECUS, 1999) (detailing, by state, grantees and programs funded for fiscal year 1998); U.S. Department of Health and Human Services, *1999 Annual Summary for the Abstinence Education Provision of the 1996 Welfare Law P.L. 104-193*, March 2000.

[19] New Right conservatives' support was instrumental in the passage of the Adolescent Family Life Act, the first federal legislation funding abstinence programs. *See* Kristin Luker, *Dubious Conceptions* (Cambridge, MA: Harvard University Press, 1996), pp. 76-79.

other family members, friends, religious and charitable organizations and voluntary associations."[20] Consistent with the AFLA's mandate, many AFLA grantees have been associated with religious groups, some of whose curricula have incorporated religious content.[21] In fiscal year 2002, the AFLA provided about $10 million for abstinence-only education.[22]

The Special Projects of Regional and National Significance-Community-Based Abstinence Education program (SPRANS-CBAE), created in 2000, also supports state and local abstinence-only programs. This program was funded at $20 million in fiscal year 2001 and at $40 million in fiscal year 2002.[23] The entire funding increase proposed by the Bush Administration is sought through the SPRANS-CBAE program, which provides direct grants to community-based organizations (many of which, in both 2001 and 2002, were faith-based).[24]

Congressional staffers who worked on the 1996 Welfare Reform Act acknowledged that "the congressional attack on illegitimacy [births to unmarried parents] is based far more on the value position that sex outside marriage is wrong and the consequences severe for mother, child and society than on empirical evidence linking a particular policy with reduced nonmarital births."[25] Nonetheless,

> Regardless of how one feels about the standard of no sex outside marriage, we believe both the statutory language and . . . the intent of Congress are clear. This standard was intended to align Congress with the social tradition—never mind that some observers now think the tradition outdated—that sex should be confined to married couples. That both the practices and standards in many communities across the country clash with the standard required by the law is precisely the point.[26]

---

[20] 42 U.S.C. §§ 300z(b)(1), 300z-1(a)(8), 300z-2(a). The AFLA provides funding for "care services," for the provision of care to pregnant and parenting adolescents and "prevention sevices" to prevent adolescent sexual relations. 42 U.S.C. §§ 300z(b)(1)(7,8), 300z-2.

[21] *See Bowen v. Kendrick*, 487 U.S. 589, 597, 625, 630 n. 3 (1988).

On July 24, 2002, a federal court in Louisiana ruled that the Louisiana Governor's Program on Abstinence (GPA) had used some of its Section 510(b) abstinence-only funds unconstitutionally to "convey religious messages and advance religion" by funding, among other things, programs that organized prayer vigils at abortion clinics; Christ-centered skits that advocate sexual abstinence; and programs that focus on the "virgin birth and make it apparent that God's desire [sic] sexual purity as a way of life" and sponsor youth revivals that "proclaim[ed] God's word with power as to why we should live pure and Holy. He made it clear that abstinence is the only way." The court ordered the GPA to "cease and desist from disbursing GPA funds to organizations or individuals that convey religious messages or otherwise advance religion in any way in the course of any event supported in whole or in part by GPA funds . . . ." The court also ordered the GPA to install an oversight program to monitor the use of its money and provide written notification to any group it finds to be using its money in a manner that violates the Constitution. *ACLU of Louisiana v. Governor M.J. Foster and Dan Richey*, Civil Action No. 02-1440 (E.D. La.) (Order, July 24, 2002).

[22] U.S. Department of Health and Human Services, Office of Adolescent Pregnancy Programs, Office of Population Affairs, *AFL Abstinence Education Demonstration Projects*, http://opa.osophs.dhhs.gov/titlexx/afl-grantees-ae.html (retrieved on June 24, 2002).

[23] *See* Military Construction Appropriations Act of 2001, Pub. L. No. 106-246, 114 Stat. 511 (2000); Consolidated Appropriations Act, 2001, Pub. L. No. 106-554, 114 Stat. 2763 (2001); Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2002, Pub. L. No. 107-116, 115 Stat. 2177 (2002).

[24] *See* U.S. Department of Health and Human Services, "HHS Awards $17.1 Million in Abstinence-only Education Grants," *HHS News*, July 6, 2001; U.S. Department of Health and Human Services, "HHS Awards Grants Nationwide to Support Abstinence Education, Services to Teens," *HHS News*, July 2, 2002.

[25] Ron Haskins and Carol Statuto Bevan, House Ways and Means Committee, "Abstinence Education Under Welfare Reform," *Children and Youth Services Review*, vol. 19, nos. 5/6 (1997), pp. 465-484.

[26] Ibid., p. 475. Acknowledging that there was "little direct evidence . . . that any particular policy or program reduces the frequency of nonmarital births," Haskins and Bevan noted that "Even so, recent history contains many examples of federal policies, including highly controversial and expensive policies, which enjoyed little empirical support at the time of introduction. Congress passed strong civil rights legislation in 1965, for example, despite the lack of evidence that outlawing discrimination based on race would be effective." Ibid., p. 466.

BEST COPY AVAILABLE

On May 16, 2002, the House passed a Welfare Reform Act reauthorization bill that would extend the Section 510(b) funding at current levels through 2007.[27] On June 27, 2002, the Senate Finance Committee passed a similar reauthorization bill with an amendment that would allocate equal funding to "abstinence-first" programs that would encourage abstinence but also teach children about contraception.[28] The full Senate has not yet voted on this bill. The SPRANS-CBAE program and the AFLA programs are funded through annual Labor-Health and Human Services (Labor-HHS) appropriations. The Senate Labor-HHS Committee approved an appropriations bill in July 2002 that maintained SPRANS-CBAE at fiscal 2002 levels and increased AFLA programs by $2.2 million. The full Senate and the House are expected to address the appropriations bill in September.[29]

All federally funded abstinence-only programs must provide abstinence education as defined by Section 510(b) of the Welfare Reform Act, as follows:

> "Abstinence education" means an educational or motivational program which:
>
> (A) has as its exclusive purpose, teaching the social, psychological, and health gains to be realized by abstaining from sexual activity;
> (B) teaches abstinence from sexual activity outside marriage as the expected standard for all school age children;
> (C) teaches that abstinence from sexual activity is the only certain way to avoid out-of-wedlock pregnancy, sexually transmitted diseases, and other associated health problems;
> (D) teaches that a mutually faithful monogamous relationship in context of marriage is the expected standard of human sexual activity;
> (E) teaches that sexual activity outside of the context of marriage is likely to have harmful psychological and physical effects;
> (F) teaches that bearing children out-of-wedlock is likely to have harmful consequences for the child, the child's parents, and society;
> (G) teaches young people how to reject sexual advances and how alcohol and drug use increases vulnerability to sexual advances; and
> (H) teaches the importance of attaining self-sufficiency before engaging in sexual activity.[30]

Section 510(b) funds also can be used for "mentoring, counseling and adult supervision" activities that promote abstinence.[31]

---

[27] The House rejected a substitute bill that would have required that programs be medically accurate; based on models that have been proven effective in reducing unwanted pregnancy or the transmission of HIV or STDs; and allow states flexibility to craft appropriate interventions. 148 Cong. Rec. H2517-05 (daily ed., May 16, 2002).

[28] Senate Committee on Finance, Baucus Amendment #2 to Chairman's Mark for H.R. 4737, June 26, 2002, http://www.senate.gov/~finance/sitepages/legislation.htm (retrieved on July 18, 2002). Advocates favoring more broad-based sexuality education have expressed concern that the "abstinence first" provision may result in a doubling of funds for abstinence-only programs, as the latter are not precluded from applying for these funds and because any guidance for such a program would be crafted by the Bush Administration's Department of Health and Human Services. Sexuality Information and Education Council of the United States, "Policy Update – June 2002," http://www.siecus.org/policy/PUpdates/pdate0023.html#WELF (retrieved on August 23, 2002).

[29] The Senate Committee on Appropriations approved $40,000,000 for the SPRANS-CBAE program (the same as the fiscal year 2002 level and $32,979,000 less than President Bush's request) and $31,124,000 for the AFLA program ($2,198,000 more than the fiscal year 2002 appropriation and the same as the administration request). Senate Committee on Appropriations, *Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Bill, 2003*, S. Rep. No. 216, 107th Cong., 2d. Sess. pp. 66, 206 (2002).

[30] 42 U.S.C. § 710(b)(2).

[31] 42 U.S.C. § 710(b)(1).

Section 510(b) and AFLA programs are not required to emphasize all eight elements of the above definition equally, but cannot provide information that is inconsistent with any of them.[32] Since these programs must have as their "exclusive purpose" promoting abstinence outside of marriage and must teach that abstinence outside of marriage and a mutually faithful monogamous relationship in the context of marriage is the expected standard of sexual activity, they cannot also "promote or endorse" condoms or otherwise discuss them, except to provide "factual information, such as failure rates."[33] According to Michele Lawler, the director of the Abstinence Education Program at the Maternal and Child Health Bureau of the U.S. Department of Health and Human Services, which administers Section 510(b) and SPRANS-CBAE programs, abstinence-only funding recipients cannot say, "if you decide to become sexually active, then here are methods" to prevent pregnancy or sexually transmitted diseases, or provide instruction regarding the use of condoms or contraception.[34]

SPRANS-CBAE-funded programs are even more restrictive than Section 510(b) and AFLA programs. SPRANS-CBAE grantees must emphasize each of the eight points of the Section 510(b) definition and must target "adolescents" twelve to eighteen years old.[35] In addition, except in limited circumstances, SPRANS-CBAE grantees cannot use their own funds to provide any other education regarding sexual conduct (such as information about condoms that they cannot provide in the abstinence-only program) to any children to whom they provide abstinence-only education.[36]

The Bush Administration has not limited its promotion of abstinence-only programs to the United States. At the U.N. General Assembly Special Session on Children in May 2002, the U.S. delegation, together with Iran, Libya, Pakistan, Sudan and the Holy See, argued that the summit declaration should endorse sexual abstinence "both before and during marriage" as the only way to prevent HIV/AIDS transmission.[37] Secretary of Health and Human Services Tommy Thompson, addressing the Special Session on Children, stated, "As President Bush has said, abstinence is the only sure way of avoiding sexually transmitted disease, premature pregnancy and the social and personal difficulties attendant to non-marital sexual activity," and that U.S. efforts "include strengthening

---

[32] Maternal and Child Health Bureau, Health Resources and Services Administration, U.S. Department of Health and Human Services, *Application Guidance for the Abstinence Education Provision of the 1996 Welfare Reform Law, P.L. 104-93*, p. 9. Since 1997, Congress has required that AFLA-funded prevention programs adhere to the Section 510(b) definition.

[33] Human Rights Watch telephone interview with Michele Lawler, director, Abstinence Education Program, Maternal and Child Health Bureau, Health Resources and Services Administration, U.S. Department of Health and Human Services, June 3, 2002. Program participants who want more information about contraception are to be advised to contact a third party (such as a health department) for more information. Ibid.

[34] Human Rights Watch telephone interview with Michele Lawler, June 3, 2002. *See also* Mathematica Policy Research Institute, Inc., *The Evaluation of Abstinence Education Programs Funded Under Title V Section 510: Interim Report*, p. 4 (noting that "[p]roviding instruction in or promoting the use of birth control would be inconsistent with the A-H guidelines").

[35] Maternal and Child Health Bureau, Health Resources and Services Administration, U.S. Department of Health and Human Services, *Application Guidance for Special Projects of Regional and National Significance Community-Based Abstinence Education under Title V of the Social Security Act*, pp. 1, 2, 7.

[36] SPRANS-CBAE grantees must agree that "with respect to an adolescent to whom the entities provide abstinence education under such grant, the entities will not provide to that adolescent any other education regarding sexual conduct, except that, in the case of an entity expressly required by law to provide health information or services the adolescent shall not be precluded from seeking health information or services from the entity in a different setting than the setting in which the abstinence education was provided." Military Construction Appropriations Act of 2001, Pub. L. No. 106-246, 114 Stat. 511 (2000); *see also* Conference Report for fiscal year 2002 Labor-HHS-Education Appropriations Act, H.R. Conf. Rep. No. 107-342 (2001).

[37] Doug Sanders, "Birth Control No Solution for AIDS, U.S. Argues," *Globe and Mail*, May 8, 2002, p. A7; *see also Statement in Explanation of Position by Ambassador Sichan Siv, United States Representative on the United Nations Economic and Social Council, at the Special Session of the United Nations General Assembly on Children, following Adoption of the Outcome Document*, May 10, 2002. The U.S. also pushed for the document to define family as a union "based on marriage between a man and woman," but agreed in the end to accept "various forms of the family." Colum Lynch, "Divided U.N. Agrees on Plan for Aiding Children," *The Washington Post*, May 10, 2002, p. A22. *See also* United Nations, *Report of the Ad Hoc Committee of the Whole of the twenty-seventh special session of the General Assembly*, U.N. Doc. A/S-27/19/Rev.1.

BEST COPY AVAILABLE

close parent-child relationships, encouraging the delay of sexual activity and supporting abstinence education programs."[38]

Several U.S. states have enacted legislation promoting or mandating abstinence education. In 1995, for example, North Carolina enacted a law requiring public schools, as part of the comprehensive health program for students in kindergarten through ninth grade, to offer an abstinence-only-until-marriage program and to permit schools to offer comprehensive sex education only after the local board of education has held a public hearing and permitted review of instructional materials (among other conditions).[39] Since 1996, several states have passed legislation that incorporates some or all of the federal definition of abstinence education, while others have considered the issue.[40] (The situation in Texas, case study for this report, is described in detail below.)

Research on Effectiveness of Abstinence-Only Education

The major commitment of federal funding for abstinence-only education has taken place notwithstanding the paucity of evidence that abstinence-only education works to delay adolescent (or extramarital) sexual activity, much less changes sexual behavior that puts adolescents at risk of HIV/AIDS and other sexually transmitted diseases and pregnancy. Secretary Thompson acknowledged as much in January 2002: asked why the administration would want to increase spending on abstinence-only programs, given the lack of scientific data supporting them, he noted that they are very popular with many of his Republican colleagues and said that "[t]he president feels, the administration feels, a lot of people in Congress feel that this is a much better way to attempt to solve this problem of teenage pregnancy. Let's try them out and see if we can't get it to work."[41]

The Institute of Medicine, the federal body of experts charged with the responsibility of advising the federal government on issues of medical care, research and education, has noted that the scientific literature, as well as experts that had studied the issue, showed that comprehensive sex and HIV/AIDS education programs and condom availability programs can be effective in reducing high-risk sexual behaviors while no such evidence supported abstinence-only programs. The Institute expressed its concern that "investing hundreds of millions of dollars of federal and state funds . . . in abstinence-only programs with no evidence of effectiveness constitutes poor fiscal and health policy," and recommended that "Congress, as well as other federal, state and local policymakers, eliminate requirements that public funds be used for abstinence-only education, and that states and local school districts implement and continue to support age-appropriate comprehensive sex education and condom availability programs in schools."[42]

---

[38] Somini Sengupta, "U.N. Session Begins to Tally The Perils of Being Young," *New York Times*, May 9, 2002, p. A14.

[39] School Health Education Act, N.C. Gen. Stat. § 115C-81 (2002); see also Anne Dellinger, "Parental Rights and School Health: North Carolina's Legislation," *School Law Bulletin*, Winter 1997, pp. 1-9 (discussing Act).

[40] *See, for example,* Miss. Code Ann. § 37-13-171 (2002); Mo. Rev. Stat. § 170.015 (2002); Ohio Rev. Code Ann. § 3313.6011 (Baldwin 2002); Virginia Code Ann. § 22.1-207.1 (Michie 2002); *see also* N.J. Rev. Stat. § 18A:35-4.20 (West 2002) (requiring that sex education, including education with respect to HIV/AIDS, "shall stress that abstinence from sexual activity is the only completely reliable means of eliminating the sexual transmission of HIV/AIDS and other sexually transmitted diseases and of avoiding pregnancy").

[41] *AP Online*, January 30, 2002. Claude Allen, Deputy Secretary of Health and Human Services in charge of the federal government's abstinence initiative, feels the same: "Unless we put money there to find out whether it ['abstinence-only-until-marriage' programs] works, we will never know." Sheryl Gay Stolberg, "Abstinence-Only Initiative Advancing," *New York Times*, February 28, 2002.

[42] Committee on HIV Prevention Strategies in the United States, Institute of Medicine, *No Time to Lose: Getting More from HIV Prevention* (Washington, D.C.: National Academy Press, 2001), pp. 118-20. The Institute of Medicine is a body of experts that acts under a Congressional charter as an adviser to the federal government. The Institute wrote *No Time to Lose* at the request of the U.S. Centers for Disease Control and Prevention, which asked that it convene a committee on HIV prevention strategies in the United States to review HIV prevention efforts of the CDC and other U.S. Department of Health and Human Services Agencies, as well as those of other public and private sector organizations, and make recommendations for future prevention efforts. Ibid., pp. xi – xii.

Under President Clinton, the White House Office of National AIDS Policy, noting that no "abstinence-only" curricula were included in the Centers for Disease Control's *Research to Classroom Project*, which identified curricula that had shown evidence of reducing sexual risk behaviors, expressed "grave concern that there is such a large incentive to adopt

BEST COPY AVAILABLE

Studies of the effectiveness of HIV/AIDS prevention and sexuality education programs have concluded that programs that cover both abstinence and contraceptive use (including condom use) can be effective in reducing sexual risk-taking behavior among adolescents that puts them at risk of HIV/AIDS. A 2001 report analyzing methodologically rigorous outcome evaluation studies of HIV prevention and sexuality education programs concluded that programs that included information about abstinence as well as the use of condoms and contraceptives can successfully delay the onset of sex and increase the use of condoms among sexually active teens.[43] This report found that "very little rigorous evaluation of abstinence-only programs has been completed" and that none of the high-quality studies of abstinence-only programs reviewed showed that abstinence-only programs had any effect on sexual behavior or contraceptive use among sexually active teens.[44]

At least one study comparing the relative efficacy of educating teenagers about safer sex with an abstinence-only intervention found that while both approaches affected sexual behavior in the short term, over a longer period, the safer-sex program proved more effective than the abstinence program in reducing both unprotected sexual intercourse and the frequency of intercourse than did the abstinence-only intervention. The researchers who conducted the study thus concluded that, "Our finding that the safer-sex intervention curbed unprotected sexual intercourse, whereas the abstinence intervention did not, suggests that if the goal is reduction of unprotected sexual intercourse, the safer-sex strategy may hold the most promise, particularly with those adolescents who are already sexually experienced. Moreover, safer-sex interventions may have longer-lasting effects than abstinence interventions."[45]

In 1997, Congress authorized an evaluation of the impact of abstinence-only programs funded by the Welfare Reform Act of 1996. Four years into the evaluation process, an interim report on evaluation findings has yet to produce any evidence that these programs are effective in reducing teen sex, pregnancy or the transmission of disease.[46]

The Adolescent Family Life Act (AFLA) requires that each grantee spend a percentage of its grant on independent evaluation of services supported by grant funds. A 1997 analysis of evaluations of AFLA programs concluded that "the quality of the AFLA evaluations funded by the federal government var[ied] from barely adequate to completely inadequate," and that the reviewers were "aware of no methodologically sound studies that demonstrate the effectiveness" of abstinence-only programs.[47]

A 1997 report by the Joint United Nations Programme on HIV/AIDS (UNAIDS) found evidence that demonstrated that sexual health education for children and young people that included the promotion of condom use promoted safer sexual practices and did not increase their sexual activity.[48]

---

unproven abstinence-only approaches." Office of National AIDS Policy, The White House, *Youth and HIV/AIDS 2000: A New American Agenda* (Washington, D.C.: Government Printing Office, 2000), p. 14.

[43] Douglas Kirby, *Emerging Answers: Research Findings on Programs to Reduce Teen Pregnancy* (Washington, D.C.: National Campaign to Prevent Teen Pregnancy, 2001), pp. 5, 88-91.

[44] Ibid., pp. 5, 85-88.

[45] John B. Jemmott et al., "Abstinence and Safer Sex HIV Risk-Reduction Interventions for African American Adolescents," *Journal of the American Medical* Association, vol. 279, no. 19, May 20, 1998, pp. 1529-1536.

[46] Mathematica Policy Research Institute, Inc., *The Evaluation of Abstinence Education Programs Funded Under Title V Section 510: Interim Report* (2002). The final evaluation report, scheduled for summer 2005, will assess the impact of only five of the eleven study subjects, as "rigorous impact studies of the[] community-wide abstinence program initiatives [including McCAP, which is included in the evaluation] are not possible." Ibid., p. 6.

[47] Brian Wilcox and Jennifer Wyatt, *Adolescent Abstinence Education Programs: A Meta-Analysis*, Presented at the 1997 Joint Annual Meeting of the Society for the Scientific Study of Sexuality and the American Association of Sex Educators, Counselors, and Therapists, Arlington, Virginia, November 1997.

[48] Joint United Nations Programme on HIV/AIDS, *Impact of HIV and Sexual Health Education on the Sexual Behavior of Young People: A Review Update* (Geneva: UNAIDS, 1997), p. 15.

Proponents of abstinence-only programs frequently cite studies of sexuality education programs in Monroe County, New York and rural South Carolina to support the claim that abstinence-only programs are effective.[49] But during the period under study, both of these programs provided information about effective contraceptive use as well as information about abstinence and therefore the positive outcomes of these programs may in fact offer evidence to support the effectiveness of comprehensive sex education.[50]

The National Academy of Sciences' Institute of Medicine, the National Institutes of Health, and the U.S. Centers for Disease Control and Prevention, U.S. government entities responsible for setting public health standards, all advise that adolescents should be given information about the proper use of condoms to reduce the risk of infection by HIV and other sexually transmitted diseases.[51] In keeping with this advice, the U.S. Department of Health and Human Services has included among its objectives to "increase the proportion of adolescents who abstain from sexual intercourse or use condoms if sexually active."[52]

Major professional medical organizations in the U.S.—including the American Medical Association, the American Academy of Pediatrics, the Society for Adolescent Medicine, the American College of Obstetricians and Gynecologists, and the American Nurses Association—also advise that adolescents should be given information about the proper use of condoms to reduce the risk of infection by HIV and other sexually transmitted diseases.[53]

---

[49] *See, for example,* Statement of Joe S. McIlhaney, Jr., M.D., president, Medical Institute for Sexual Health, Testimony Before Subcommittee on Human Resources of the House Committee on Ways and Means, Hearing on Teen Pregnancy Prevention, November 15, 2001 (stating that studies of specific abstinence programs, including Monroe County and South Carolina programs, show "surprising success," and citing to Murray L. Vincent et al., "Reducing Adolescent Pregnancy Through School and Community-based Education," *Journal of the American Medical Association*, vol. 257, no. 24, June 26, 1987, pp. 3382-3386 and Andrew Doniger, et al., "Impact Evaluation of the 'Not Me, Not Now' Abstinence-Oriented, Adolescent Pregnancy Prevention Program, Monroe County, N.Y.," *Journal of Health Communication*, vol. 6, no. 1, February 2001, pp. 45-60.

[50] The South Carolina study included as one of its objectives the promotion of the consistent use of effective contraception among sexually active teens and provided information about contraception. Vincent et al., "Reducing Adolescent Pregnancy Through School and Community-based Education," p. 3383. The Monroe County program used the Postponing Sexual Involvement curriculum, the 1990 version of which teaches that "teens who have sex must use a method of protection against sexually transmitted infections and pregnancy each time they have sex. The best method of protection against a sexually transmitted diseases is a condom." Marion Howard and Marie E. Mitchell, *Postponing Sexual Involvement: An Educational Series for Preteens. Videocassette Version* (Atlanta, Georgia: Emory/Grady Teen Services Program, 1990). At some point during the study period the program "modified [Postponing Sexual Involvement] to comply with federal funding guidelines." Doniger, et al., "Impact Evaluation of the 'Not Me, Not Now' Abstinence-Oriented, Adolescent Pregnancy Prevention Program, Monroe County, N.Y.," p. 48. Although there is some evidence that programs that encourage students to take a pledge to abstain from sex may help delay teenagers' initiation of intercourse, there also is evidence that teens who break their pledge are less likely to use contraceptives once they become sexually active. *See* Peter S. Bearman and Hannah Brückner, "Promising the Future: Virginity Pledges as they Affect Transition to First Intercourse," *American Journal of Sociology*, vol. 106, no. 4 (2001), pp. 859-912.

[51] *No Time to Lose*, pp. 116-120; National Institutes of Health, "Interventions to Prevent HIV Risk Behaviors," NIH Consensus Statement (Feb. 11-13, 1997); Centers for Disease Control and Prevention, Division of Adolescent Health Services, "Guidelines for Effective School Health Education to Prevent the Spread of AIDS," *MMWR* vol. 37(S-2), Jan. 29, 1998, pp. 1-14 (posted on CDC website, http://www.cdc.gov/nccdphp/dash/guidelines/aids.htm and advising that "school systems, in consultation with parents and health officials, should provide AIDS education programs that address preventive types of behavior that should be practiced by persons with an increased risk of acquiring HIV infection," including, among other things, "[u]sing a latex condom with spermicide if they engage in sexual intercourse").

[52] U.S. Department of Health and Human Services, *Healthy People 2010: Understanding and Improving Health*, second ed. (Washington, D.C.: U.S. Government Printing Office, 2000).

[53] *See* American Medical Association, Council on Scientific Affairs, "Sexuality Education, Abstinence and Distribution of Condoms in Schools"; American Academy of Pediatrics Committee on Pediatric AIDS and Committee on Adolescence, "Adolescents and Human Immunodeficiency Virus Infection: the Role of the Pediatrician in Prevention and Intervention," *Pediatrics*, vol. 107, no. 1, January 2001, pp. 188-90; American Academy of Pediatrics, Committee on Adolescence, "Condom Use by Adolescents," *Pediatrics*, vol. 107, no. 6, June 2001, pp. 1463, 1467; Society for Adolescent Medicine, Position Statement and Resolutions: Reproductive Health Care for Adolescents and "Media and Contraception: Position

BEST COPY AVAILABLE

Texas Abstinence-Only Education Programs

The Texas Governor's Office and the Texas Department of Health share authority for the Texas Abstinence Education Program, which administers Section 510(b) funding.[54] Since 1998, when Section 510(b) funds first were made available, Texas has funded thirty-two abstinence contractors.[55] Texas has received about $5 million annually in Section 510(b) funding for the first five years of the program.[56] In fiscal year 2001, Texas programs received about $2 million in SPRANS-CBAE funding and $1.1 million in funding for AFLA abstinence education projects.[57]

In addition to funding individual abstinence-only contractors, Texas' Abstinence Education Program funds a statewide abstinence-only media campaign, as well as evaluation of the abstinence-only contractors and of the media campaign.[58]

In Texas, local school boards have discretion to decide whether to provide students education about sexuality, HIV/AIDS, or sexually transmitted diseases.[59] With respect to HIV/AIDS and sexually transmitted disease (STD) education, Texas is in the minority, as thirty-eight states mandate that schools provide HIV/AIDS and STD education.[60] Many Texas school districts provide little or no education about HIV/AIDS, sexually transmitted diseases, or sexuality more generally, instead focusing their attention on less controversial subjects, like cardiovascular health, nutrition and obesity prevention.[61]

According to state law, course materials relating to sexuality, HIV/AIDS, or sexually transmitted diseases must be selected by the board of trustees of the school district with the advice of its appointed local school health education advisory council and must use course materials and instruction that:

Paper of the Society for Adolescent Medicine," *Journal of Adolescent Medicine*, vol. 27 (2000), pp. 290-91; the American College of Obstetricians and Gynecologists (ACOG), Committee on Adolescent Health Care, "Condom Availability for Adolescents" (April 1995) and ACOG Statement of Policy, "Limitations of Abstinence-only Legislation" (May 1998).

[54] Human Rights Watch interview with Marion Stoutner, director, Child Wellness Division, Bureau of Children's Health, Texas Department of Health, Austin, Texas May 10, 2002; Texas Department of Health Inter-Office Memo from Thomas W. Bever, Jr., deputy regional director, Public Health Region 7 and Becky Berryhill, chief, Bureau of Licensing and Compliance to Debra Stabeno, deputy commissioner for programs and Mark Guidry, M.D., acting associate commissioner for Family Health, regarding review of Texas Department of Health's abstinence-only program, p. 2.

[55] Texas funded twenty-one abstinence education contractors during the first funding cycle and an additional eleven contractors during the second funding cycle. One of the contractors has since dropped out. Otherwise, Texas has sustained funding for the same contractors throughout the five-year Section 510(b) funding cycle. Human Rights Watch interview with Marion Stoutner, May 10, 2002. For information about individual contractors, see Texas Department of Health, "Abstinence Education: Current Awardees and Contractors," http://www.tdh.state.tx.us/abstain/awarcon.htm (retrieved on June 25, 2002).

[56] Texas presently allocates $1.6 million per year to Section 510(b) programs for assistance with meeting the federal "match" requirements. Human Rights Watch interview with Marion Stoutner, May 10, 2002.

[57] U.S. Department of Health and Human Services, "HHS Awards $17.1 Million in Abstinence-only Education Grants," *HHS News*, July 6, 2001 (SPRANS-CBAE grant awards); http://opa.osophs.dhhs.gov/titlexx/afl-grantees-cp-listing.html#cp-tx (OPA website on AFLA funding, retrieved on August 2, 2002). In 2001, Texas programs received approximately twelve percent of all SPRANS-CBAE grant awards and more than 10 percent of AFLA grants funded.

[58] Human Rights Watch interview with Marion Stoutner, May 10, 2002. Several abstinence-only contractors are also conducting evaluations of their respective programs. Human Rights Watch interview with Marilyn Ammon, executive director, McCAP, Waco, Texas, April 29, 2002; Human Rights Watch interview with Dr. Patricia Sulak, director, Scott & White Sex Education Program, Temple, Texas, May 1, 2002.

[59] *See* Tex. Educ. Code §§ 28.002, 28.004; *see also* Attorney General Opinion No. DM-465 (Jan. 9, 1998) (regarding state Board of Education and local school district powers with respect to public school sex education).

[60] Alan Guttmacher Institute, *State Policies in Brief*, February 1, 2002.

[61] Human Rights Watch telephone interview with Tommy Fleming, director, Health and Physical Education, Division of Curriculum and Professional Development, Texas Education Agency, May 22, 2002; Human Rights Watch interview with David Wiley, professor, Health Education Division, Department of Health, Physical Education and Recreation, Southwest Texas State University, May 8, 2002.

(1) "present abstinence from sexual activity as the preferred choice of behavior in relationship to all sexual activity for unmarried persons of school age;
(2) "devote more attention to abstinence from sexual activity than to any other behavior;
(3) "emphasize that abstinence from sexual activity, if used consistently and correctly, is the only method that is 100% effective in preventing pregnancy, sexually transmitted diseases, infection with human immunodeficiency virus or acquired immune deficiency syndrome, and the emotional trauma associated with adolescent sexual activity;
(4) "direct adolescents to a standard of behavior in which abstinence from sexual activity before marriage is the most effective way to prevent pregnancy, sexually transmitted diseases and infection with human immunodeficiency virus or acquired immune deficiency syndrome; and
(5) "teach contraception and condom use in terms of human use reality rates instead of theoretical laboratory rates, if instruction on contraception and condoms is included in curriculum content."[62]

Human Rights Watch visited four programs in Texas: the McLennan County Collaborative Abstinence Project (McCAP); the Scott & White Sex Education Program; the Medical Institute for Sexual Health; and Laredo's "Mi Futuro/My Future" abstinence education program. All of these programs receive Section 510(b) funding. McCAP and Scott & White also receive SPRANS-CBAE funding.

McCAP provides abstinence-only curriculum materials, speakers and other support materials and literature to all McLennan County public school districts except for Waco (the largest district), and to private schools and foster home facilities in the area.[63] The Waco school board rejected the McCAP program reportedly because it was concerned that it would restrict information about contraception and that sexually active teens would respond to the abstinence-only curriculum by forgoing condoms and contraception while continuing to have sex.[64]

McCAP supports an "aggressive abstinence campaign in the media," as well as community programs in churches, at the workplace and other settings.[65] It provides referrals to health care providers "promising to reinforce the abstinence-only message" and offers "seminars, supporting literature, training, on-site education,

---

[62] Tex. Educ. Code § 28.004(e). Although Texas law requires districts that teach sexuality education to have local school health education advisory councils (SHEACs), there are no timelines, deadlines or other mandates for when such councils must be established nor any penalties for noncompliance. An estimated 50 percent of school districts do not have SHEACs. Human Rights Watch interview with Tommy Fleming, director, Health and Physical Education, Division of Curriculum and Professional Development, Texas Education Agency, May 22, 2002; *see also* David C. Wiley and Gay James, "The Status of Health Education Advisory Councils in Texas Public Schools: A 2-Year Retrospective Study," *Journal of Health Education*, vol. 31, no. 6, November/December 2000 pp. 341-345 (finding that 32.7 percent of school districts surveyed had not established school health education advisory councils).

[63] According to McCAP's application for funding for fiscal year 2002, twenty-five public school districts, six private schools and two foster home facilities receive McCAP programs on their campuses. McCAP Continuation Request for Proposals for Section 510 abstinence education funding (RFP), p. C1. McCAP provides Teen Aid's *Maturity in Body and Character* (fifth and sixth grade); *Me, My World, My Future* (seventh and eighth grade); and *Sexuality, Commitment and Family* (high school) and *Choosing the Best Life* (high school); *Choosing the Best Path* (middle school); *PHAT Star* (Marlin ISD). Human Rights Watch interviews with Marilyn Ammon, April 29, 2002; Human Rights Watch interview with Becky Mosby, education director, McCAP, Waco, Texas, April 30, 2002; McCAP, *A Collaborator's Guide* (on file with Human Rights Watch).

[64] Polly Ross Hughes, "Waco Schools Criticized for Rejecting Abstinence Project," *The Houston Chronicle*, November 22, 1998; Jen Sansbury, "WISD Vowing to Keep Present Sex-Ed Program," *Waco Tribune-Herald*, September 12, 1998, p. 1A. Under the terms of its grant, McCAP was required to reach out to 20,000 students. When the Waco school district, with more than 6,000 students in the sixth to twelfth grade, opted not to participate, McCAP was threatened with a 40 percent cut in its funding. Jen Sansbury, "Group May Lose Funding: County Faces 40 Percent Drop-off After WISD Withdrawal," *Waco Tribune-Herald*, October 29, 1998, p. 1A.

[65] McCAP RFP, p. C1; Human Rights Watch interview with Marilyn Ammon, April 29, 2002; Human Rights Watch interview with Becky Mosby, April 30, 2002; Human Rights Watch interview with Denise Hensley, McCAP corporate abstinence educator, Waco, Texas, April 30, 2002.

counseling and support."[66] McCAP also trains school district personnel and school health education advisory council members and collaborates with local churches in developing abstinence-only activities.[67]

The Scott & White Sex Education Program provides abstinence-only materials and training in ten counties in central Texas, with the goal of educating "adolescents and adults on the ramifications of adolescent sexual activity including the medical, social, economic and legal consequences."[68] Scott & White uses "Worth the Wait," a middle-school abstinence-only curriculum that it developed and which it distributes to schools in ten central Texas counties, and which it markets nationwide.[69]

Scott & White's program is highly structured. The curriculum materials are scripted and include outlines of all supplies, activities and necessary materials. Scott & White holds a two-day seminar to train teachers and other school personnel who use its materials, and district-wide training for all employees in school districts that use its materials. It also provides education for parents, community members and healthcare professionals throughout the state of Texas. Scott & White is also working with Time-Warner Cable to produce public service announcements promoting abstinence.[70]

Laredo's "Mi Futuro/My Future" abstinence education program is a "collaborative effort between the Laredo Independent School District and the City of Laredo Health Department," whereby the health department administers the abstinence-only grant, which it subcontracts to the school district for implementation.[71] The program targets middle school students in four Laredo schools and, since the 2001-2002 school year, to freshmen in one Laredo high school. Two "master teachers" coordinate the "Mi Futuro/My Future" program and monitor its activities and progress; five "health trainers" use the "Mi Futuro/My Future" curriculum developed by the program in the classroom and hold meetings and community events for parents.[72]

The Medical Institute for Sexual Health is a nonprofit organization founded in 1992 by Dr. Joe McIlhaney, an Austin gynecologist, to "confront the worldwide epidemics of nonmarital pregnancy and sexually transmitted disease with incisive health care data."[73] The Medical Institute produces resource materials for abstinence education programs, hosts national and statewide conferences and seminars on sexually transmitted diseases, sex education and nonmarital pregnancy and makes regular appearances at meetings of health professionals.

The Medical Institute collaborates with both McCAP and Scott & White in their work. It receives federal abstinence-only funding to hold "Change Makers" seminars to "educate, equip and mobilize local community leaders to build community-wide consensus and to develop an action strategy—based on character development—for promoting abstinence from sexual activity and other risk behaviors among local unmarried teens and young adults."[74] These seminars are directed at adult community leaders in government, education,

---

[66] Ibid., pp. C1-C2. The media campaign includes public service announcements on the local ABC television affiliate and on the radio, as well as advertisements on billboards and in school newspapers.

[67] Human Rights Watch interview with Marilyn Ammon, April 29, 2002; McCAP, *A Collaborator's Guide*.

[68] Scott & White Sex Education Program application for Section 510 abstinence education funds for fiscal year 2002, pp. F1-F8; Human Rights Watch interview with Dr. Patricia Sulak, May 1, 2002.

[69] "Worth the Wait" materials include *Teens and Sex: What are the Effects: What Adults Need to Know About Teens and Sex*; and national and Texas editions of *Teens, Sex and the Law*.

[70] Ibid. and Human Rights Watch interview with Dr. Patricia Sulak, May 1, 2002.

[71] City of Laredo application for Section 510 abstinence education funds for fiscal year 2002, p. C1.

[72] Ibid.; Human Rights Watch interview with Charnaine Heimes, master teacher, "Mi Futuro/My Future" Abstinence Education Program, Laredo, Texas, May 9, 2002.

[73] According to its mission statement, the Medical Institute "identifies, evaluates and communicates credible scientific data in practical, understandable and dynamic formats to promote healthy sexual decisions and behavior in order to dramatically improve the welfare of individuals in society." Dr. McIlhaney told Human Rights Watch that the Medical Institute is not an abstinence organization, but a medical educational group that is committed to reducing the risk of sexually transmitted diseases and nonmarital pregnancy. It supports abstinence because it is "clear that abstinence is best for adolescents and young adolescents." Human Rights Watch interview with Dr. Joe McIlhaney, May 10, 2002.

[74] Medical Institute for Sexual Health application for Section 510 abstinence education funds for fiscal year 2002, p. C1.

health care, faith communities, social service and community industries and business who can foster the development of a community environment that supports abstinence until marriage.[75]

VI. IMPEDING ACCESS TO INFORMATION ABOUT HIV/AIDS PREVENTION

Consequences of Texas' Abstinence Programs

Restricting Information About Condoms

> *The downfall is giving kids too many choices. Kids have a lot of choices, but the best choice is abstinence. I guess they can go elsewhere for more information.*[76]
> - Linda Grisham, teacher, Temple, Texas, May 6, 2002

> *We don't talk about HIV/AIDS prevention except to say "remain abstinent until marriage and once married, be monogamous with your spouse." We don't talk about contraception or condoms because that would be crossing the line that the state or federal guidelines have set. We don't mention the word "condoms" at all. If a student brings it up, he's directed to speak with other people, like his parents or a counselor.*[77]
> - Charmaine Heimes, master teacher, Laredo, Texas, May 9, 2002

Texas' federally funded abstinence-only programs restrict information on condoms because they are barred by federal law from "promoting or endorsing" contraceptive use. Texas-based abstinence-only education programs also contend that encouraging abstinence while also teaching about "safe sex" or "safer sex" sends a "mixed message" to young people that is "misleading at best and, at worst, irresponsible."[78] These programs also teach that condoms don't adequately protect against sexually transmitted diseases, particularly among teenage users, and therefore there is no such thing as "safe" or "safer" sex with condoms. As a result, abstinence-only programs omit any discussion of condoms and contraception altogether, or provide inaccurate or misleading information about condoms as a method of HIV/AIDS prevention.

Sally Fleming and Laura Wilson, high school health teachers from a McLennan County high school that uses McCAP abstinence-only materials, including Teen Aid's "Sexuality, Family and Commitment," told Human Rights Watch that prior to their school's adoption of McCAP's abstinence-only program, they were able to talk about condoms and other birth control methods. However, since the adoption of the abstinence-only curriculum, they are limited with respect to what they can say about contraceptives and their use.[79] Fleming said, "Before

---

[75] Ibid., pp. C1-C2, F1-F10.

[76] Human Rights Watch interview with Linda Grisham, teacher, Temple High School, Temple, Texas, May 6, 2002.

[77] Human Rights Watch interview with Charmaine Heimes, master teacher, "Mi Futuro/My Future" Abstinence Education Program, Laredo, Texas, May 9, 2002.

[78] *See, for example,* The Medical Institute for Sexual Health, *National Guidelines for Sexuality and Character Education* (Austin, Texas: The Medical Institute for Sexual Health, 1996), p. 12; Teen Aid, *Sexuality Commitment and Family: Student Text* (Spokane, WA: Teen Aid, Inc., 1995), pp. 139-40. Studies in the United States and abroad have come to contrary conclusions. *See, for example,* UNAIDS, *Impact of HIV and Sexual Health Education on the Sexual Behaviour of Young People: a Review Update* (New York: UNAIDS, 1997) (review of sixty-eight country evaluations of sex education programs concluded that "little evidence was found to support the contention that sexual health and HIV education promote promiscuity… . Twenty-two [studies] reported that HIV and/or sexual health education either delayed the onset of sexual activity, reduced the number of sexual partners, or reduced unplanned pregnancy and STD rates."); Douglas Kirby, *Emerging Answers: Research Findings on Programs to Reduce Teen Pregnancy* (finding that sex education that discusses contraception does not hasten the onset of sex, increase the frequency of sex, nor increase the number of sexual partners); John B. Jemmott et al., "Abstinence and Safer Sex HIV Risk-Reduction Interventions for African American Adolescents," *Journal of the American Medical Association*, vol. 279, no. 19, May 20, 1998, pp. 1529-1536 (among sexually experienced youth, those in safer sex intervention reported less frequent intercourse than those in abstinence intervention).

[79] Human Rights Watch telephone interview with Sally Fleming, May 4, 2002; Human Rights Watch interview with Laura Wilson, Waco, Texas, April 30, 2002. Sally Fleming and Laura Wilson are pseudonyms for teachers who requested anonymity.

McCAP, I could say, 'If you're not having sex, that's great. If you are, you need to be careful and use condoms.' Boy, that went out the window." She expressed her concern that since her school adopted the abstinence-only curriculum, she has felt like she is "in a bad situation," needing to give her students more information about condoms and contraception, but restricted about what she can say. She noted that she cannot say, "Use a condom to prevent getting HIV," or "If you use condoms, your chances are better of avoiding disease," and cannot tell her students that they "need to use something to prevent HIV and STDS."[80]

Fleming said that she thinks that all of the other teachers at her school would like to be able to speak more freely and that most parents want their children to be educated about everything. "As a health teacher, I don't believe in abstinence-until-marriage education, but I worry about breaking the rules. People here are afraid of being vocal because it'll come back to bite them. You should see how they butchered Planned Parenthood in the paper."[81]

Laura Wilson, who teaches at the same high school as Fleming, told Human Rights Watch that before her school district adopted the abstinence-only curriculum, she could talk a little more about different methods of contraception, including condoms, and how they worked. Now she cannot talk about contraception, except to say that no contraceptive method is perfect because all have failure rates. "I mention condoms like the book [Teen Aid's "Sexuality, Family and Commitment"] does. I tell them that they give a false sense of security about protection against STDs, because they're not 100 percent and that condoms may prevent HIV or not, but I wouldn't bet my life on it." She also said that the abstinence-only curriculum is "freeing" as well as limiting. "I don't discuss things outside the book. I don't want to be dishonest, but I am worried about keeping my job. Having Teen Aid makes the choice of how to teach a controversial subject much easier."[82]

The message that students receive in abstinence-only classrooms is that remaining abstinent from sex is the only way to prevent HIV. Sean G., a fifteen-year-old high school student who had recently completed the required health education class at a McCAP school, told Human Rights Watch that "[a]t the beginning of the class, my teacher said that she was not going to discuss methods to inhibit transmission of diseases except for abstinence."[83] When asked whether he had learned how to prevent HIV, Sean replied, "other than abstinence? No."[84] Linda P., a sixteen-year-old student at the same high school, told Human Rights Watch, "I don't know any other way but abstinence to prevent HIV,"[85] a statement that was echoed by other McCAP students interviewed by Human Rights Watch.

In some abstinence-only programs, teachers do not mention contraceptives or condoms at all, believing that doing so would contravene state and federal restrictions. This is illustrated by the comments of Charmaine Heimes, who supervises "abstinence teachers" in Laredo Independent School District's abstinence-only program and is quoted at the opening of this section (other teachers in the Laredo program confirmed Heimes' statement).[86] Students in these programs who ask questions about condoms or contraceptive use are directed to speak with their parents or to a counselor. (For the issue of referrals, see below.)

---

[80] Human Rights Watch telephone interview with Sally Fleming, May 4, 2002.

[81] Ibid. Planned Parenthood is an organization that provides sexuality education programs as well as comprehensive reproductive health care services to adolescents and adults, and advocates both in the U.S. and internationally to improve access to reproductive health services. Planned Parenthood of Central Texas, its Waco-based affiliate, provides reproductive health care services and education in the McLennan County area.

[82] Human Rights Watch interview, Waco, Texas, April 30, 2002.

[83] Human Rights Watch interview, Waco, Texas, May 2, 2002.

[84] Ibid.

[85] Human Rights Watch interview, Waco, Texas, May 2, 2002.

[86] Human Rights Watch interview with Charmaine Heimes, master teacher, "Mi Futuro/My Future" Abstinence Education Program, Laredo, Texas, May 9, 2002; Human Rights Watch interview with Erika Ramirez, health trainer, "Mi Futuro/My Future" Abstinence Education Program, Cigarroa Middle School, Laredo, Texas, May 9, 2002; Human Rights Watch interview with Terry Cruz, health trainer, "Mi Futuro/My Future" Abstinence Education Program, Nixon High School, Laredo, Texas, May 9, 2002.

BEST COPY AVAILABLE

Restrictions on discussing condoms extend to teachers and other employees in school districts with abstinence-only programs, including those who do not themselves teach the federally funded abstinence-only classes. Jerry Ramirez, the health teacher at Cigarroa Middle School, in Laredo, Texas, told Human Rights Watch that he thinks that the very high teen pregnancy rate in Laredo indicates that his students need more comprehensive HIV/AIDS prevention education. He doesn't talk about HIV prevention in his classroom, though, because "Cigarroa [middle school] has an abstinence program. I can't mention condoms or birth control. If kids have a question about condoms or birth control, I refer them to their parents or to a counselor." Nor does he discuss HIV or other sexually transmitted diseases, unless a student raises the issue. "If a student asks a question, it's usually about transmission. I tell them that HIV is sexually transmitted, or that you can get it from a blood transfusion, or through intravenous drug use."[87] Once, Ramirez caught some students with condoms at school and confiscated them. When the students asked him, "Why are you taking the condoms away? Shouldn't we be using condoms?" Ramirez told the students that he couldn't discuss this and advised the students that they should speak with their parents.[88]

Kay Coburn, the curriculum director at Temple School District, Bell County, Texas, which has adopted Scott & White's abstinence-only program and uses its materials, told Human Rights Watch that "Scott & White told us that if we teach anything but abstinence, they could lose their federal funding. We don't discuss condom use, except to say that condoms don't work."[89] Dr. Coburn told Human Rights Watch that she thinks that students should be given more information about protecting against HIV and that there should be somewhere kids can go for referrals, but that she understands that state and/or federal guidelines limit the schools from providing this information.[90]

All employees in Temple School District, including bus drivers and janitors, participate in Scott & White's district-wide trainings. Kay Coburn explained that students sometimes communicate with employees other than teachers about personal issues and, therefore,

> Everyone is sensitive to the abstinence message. The idea is that if they hear kids talking about "these things," they can remind them that they should be abstinent until marriage. We're an abstinence-based district. If the issue comes up, employees are advised to refer the student to a teacher and then say abstinence until marriage is the way to be and to think about what you're doing.[91]

Restricting Access to Experts on HIV/AIDS Prevention

Some of Texas' abstinence-only programs impede students' access to information from individuals with expertise on HIV/AIDS prevention, such as HIV/AIDS educators from local health departments and people in private organizations who provide HIV/AIDS and STD prevention education.

Pam Smallwood, who spent more than twenty years as the education director of Planned Parenthood of Central Texas in Waco before becoming the organization's executive director two years ago, told Human Rights Watch that Planned Parenthood and HIV/AIDS educators from the county health department used to provide comprehensive sex education presentations to public schools throughout McLennan County, which included information about condom use as a method to prevent pregnancy and HIV/AIDS. In the past few years, however, these organizations have stopped visiting many county schools. Smallwood told Human Rights Watch that as education director, she "used to spend most of [her] time in the schools," but that because McCAP is in all the school districts in McLennan County except Waco, Planned Parenthood now does few school presentations. "If McCAP weren't in all of those schools, Planned Parenthood and Raylene Silver [the HIV/AIDS and STD

[87] Human Rights Watch interview with Jerry Ramirez, health teacher, Cigarroa Middle School, Laredo, Texas, May 9, 2002.
[88] Ibid.
[89] Human Rights Watch interview with Kay Coburn, curriculum director for math, science and gifted education, Temple Independent School District, Temple, Texas, May 6, 2002.
[90] Ibid.
[91] Ibid.

educator for the Waco-McLennan County Health District] would be in those schools."[62] As Cheryl Cox, the health teacher at Robinson High School who teaches its abstinence-only curriculum, explained, Planned Parenthood used to come to speak to her class, "but it's a very conservative community and there was a bad vibe. The approach here is that the less we know, the better."[63]

Susan Nichols, a counselor for pregnant and parenting teens at a McLennan County high school that has adopted McCAP's abstinence-only curriculum, told Human Rights Watch that "if the school would allow discussion of condoms, I'd rather have someone from Planned Parenthood talk with them. . . . My job is to help the girls finish high school. I'm not an expert in STDs or condom use."[64] At about the same time that Human Rights Watch spoke with Nichols, she invited Pat Stone, the education director of Planned Parenthood of Central Texas, to speak with her students about sexually transmitted diseases and birth control. However, Nichols said that she soon retracted the invitation because the principal told her that the school had had some problems with some information that Planned Parenthood had given in the past and parents might get upset if Planned Parenthood came to the campus.[65]

Although the City of Laredo Health Department, a partner in the "Mi Futuro/My Future" abstinence-only program, has an HIV/STD program whose staff includes health educators and prevention specialists, the HIV/STD program and its expertise are not incorporated into the abstinence-only program. As Christina Earles, an HIV/AIDS educator, explained, "the schools don't let us talk with the kids because we don't teach abstinence but prevention."[66]

Manuel Sanchez, the program coordinator for the City of Laredo's HIV/STD program, told Human Rights Watch, "in no way are we allowed to go into the schools" because the schools have their own funding to provide services related to HIV. "But this is just in theory. In fact, no HIV education is taking place."[67] School nurses have told Sanchez that the HIV message to students is that there is no cure for HIV, so that they should be abstinent and that they cannot talk about safer sex because that would be considered as promoting sex.[68]

Nurses in Laredo high schools have asked Sanchez to come to Laredo schools to provide HIV education, but, as he has explained to the nurses, they must first get permission from the schools and then he would discuss this with the Texas Department of Health, which is his department's funding agency. None of the nurses have yet contacted him with such permission. In any event, Sanchez told Human Rights Watch that it might be difficult to get permission from the Texas Department of Health to do HIV prevention in schools because the Texas Education Agency gives funding to the school districts to provide this kind of service. Moreover, he would need the school board's and parents' permission before he could teach HIV prevention in the schools.[69]

---

[62] Human Rights Watch telephone interview with Pam Smallwood, May 6, 2002. Smallwood contends that several factors contributed to the decline in invitations for Planned Parenthood to speak in schools in the past ten years: the fact that Planned Parenthood began providing abortions eight years ago; the rise of the religious right; the pressure on teachers to focus on subjects tested on statewide competency exams; and the increasing pressure on schools to provide some sort of sex education. "McCAP came along at a perfect time. They promised to train teachers, provide materials and do it in a palatable way." Ibid.

[63] Human Rights Watch interview with Cheryl Cox, teacher, Robinson High School, Robinson, Texas, May 3, 2002.

[64] Human Rights Watch telephone interview, May 1, 2002. Susan Nichols is a pseudonym for a counselor who requested anonymity.

[65] Human Rights Watch telephone interview with Susan Nichols, June 19, 2002. Instead, Nichols obtained a pamphlet from Planned Parenthood about STDs and contraception, which she reviewed with her students herself. She felt constrained, however, from handing out this information to the students: "I didn't want to make a huge bunch of waves, so I just got a pamphlet from Planned Parenthood and talked about it with my students. I didn't want to hand out any pamphlets to the students. I didn't think that the school would be real pleased about that." Ibid.

[66] Human Rights Watch interview with Christina Earles, peer educator, HIV/STD Program, City of Laredo Health Department, Laredo, Texas, May 9, 2002.

[67] Human Rights Watch telephone interview with Manuel Sanchez, June 11, 2002.

[68] Ibid.

[69] Ibid.

BEST COPY AVAILABLE

Sanchez' experience at the health department suggests that Laredo students are not getting sufficient information about HIV. The health department periodically has interns from local high schools come for one to two weeks. According to Sanchez, many of them are hungry for information about HIV/AIDS and volunteer to work with the HIV/STD program.[100]

In May 2000, Raylene Silver, an HIV/AIDS educator with the Waco-McLennan County Health District, was invited to do a presentation to Cheryl Cox's high school health class in Robinson, Texas. Prior to the class, Silver was told that she would be allowed to pass out information about birth control, so she brought pamphlets produced by the Texas Department of Health to distribute to the students. When she arrived at the classroom, however, Cox told her, "We can't talk about birth control or prevention of HIV or STDs by using condoms. We're a McCAP school." Cox told Silver that she could put the birth control pamphlets on her desk but that she couldn't hand them out and that the students would have to ask for them specifically if they wanted one. Thus cautioned, Silver was limited to telling the students "If you know anyone who is sexually active, they've got to take responsibility and use protection."[101]

In May 2002, Cox told Human Rights Watch that she would have to get permission from the principal for an HIV educator to bring pamphlets about birth control into the classroom.[102] Subsequently, Sharon Henson, the lead chair of the Robinson's school health education advisory council and an assistant principal at Robinson High School, told Human Rights Watch that she was "very pleased with McCAP," and that teaching abstinence-until-marriage "is what the school board and the community want." She said that the school was "not going to get into birth control," and that they didn't discuss "safe sex," but "save sex" – that is, save sex until marriage. Henson also cautioned Human Rights Watch, "I hope you're not out to hurt McCAP in any way. We're very pleased with what they've brought in."[103]

Misinformation About Condoms

There is a broad scientific consensus, including among federal health agencies, that condoms, when used correctly and consistently, are highly effective in preventing the transmission of HIV/AIDS.[104] Some Texas abstinence-only programs obscure this important fact and provide misleading information about the efficacy of condoms in protecting against transmission of HIV/AIDS and other sexually transmitted diseases.

McCAP's media campaign includes public service announcements on radio and television that advise as follows:

You may have heard people say "the truth hurts" . . . but what about lies?

---

[100] Ibid.

[101] Human Rights Watch telephone interview with Raylene Silver, April 24, 2002; Human Rights Watch interview with Raylene Silver, Waco, Texas, April 29, 2002.

[102] Human Rights Watch interview with Cheryl Cox, May 3, 2002.

[103] Human Rights Watch interview with Sharon Henson, chair, Robinson school health education advisory council and assistant principal, Robinson High School, Robinson, Texas, May 3, 2002.

[104] National Institutes of Allergy and Infectious Diseases, National Institutes of Health, Department of Health and Human Services, *Workshop Summary: Scientific Evidence on Condom Effectiveness for Sexually Transmitted Disease Prevention* (Washington, D.C.: NIAID, NIH, DHHS, June 20, 2001) (hereafter "NIH study"). The NIH study also concluded that condoms can reduce the risk of gonorrhea transmission from women to men and of genital warts and cervical neoplasia, conditions associated with human papilloma virus (HPV) infection, but that epidemiological evidence was insufficient to assess condom effectiveness in preventing transmission of gonorrhea from men to women, syphilis, chlamydial infection, chancroid, trichomoniasis and genital herpes; and that there was no evidence that condoms reduced transmission of HPV. The study further stressed that "the absence of definitive conclusions reflected inadequacies of the evidence available and should not be interpreted as proof of the adequacy or inadequacy of the condom to reduce the risk of STDs other than HIV transmission in men and women and gonorrhea in men." Ibid., p. ii.

Supplementary data not considered in the NIH study or literature not covered in the report demonstrate that condoms protect against chlamydia, against gonorrhea in women and against herpes simplex 2 in women. *See* Willard Cates, Jr., "The NIH Condom Report: The Glass is 90% Full," *Family Planning Perspectives*, vol. 33, no. 5, September/October 2001 pp. 231-33, notes 3-6 (citing studies).

If you are a parent, you could be telling life-threatening lies to your children without even knowing it.
That's because for years you've heard about "safe sex." The truth is that condoms will not protect people from many sexually transmitted diseases. Don't you think that your son or daughter has a right to know the truth? Get the truth for youth in a free information packet available at www.truth4youth.info or call 399-9728. Truth for Youth.[105]

In 10 seconds, you'll hear this father spread a lie. He's a good dad, who's trying to help his son. But if he doesn't know the truth, he can't tell the truth.
Screen: HERE COMES THE LIE.
Father: "They'll keep you safe. They'll keep you safe. They'll keep you safe."
Background: "Condoms will not protect people from many sexually transmitted diseases and you could be spreading lies to your children."
Screen: "HPV, genital herpes, chlamydia, trichomoniasis, hepatitis B."
Get the truth for youth by calling the number on the screen or visiting truth4youth.info.[106]

McCAP's "Truth for Youth" advertisement campaign teaches adolescents that condoms don't work. A Planned Parenthood employee told Human Rights Watch that after watching a "Truth for Youth" commercial with her teenage daughter, her daughter turned to her and said, "Mom, I thought that you told me that if I used condoms, it would help protect me against pregnancy, HIV and STDs. Why are you telling me this?" Her daughter also told her that many of her high school classmates had heard the "Truth for Youth" commercials and that some of the boys at school said that they didn't think that they had to use condoms any more when they had sex because condoms would not protect them or their partners. Teenage patients at Planned Parenthood also have told this employee that they heard on television that "condoms aren't as safe as everybody seems to think" and "my boyfriend says they don't work. He heard it on the radio."[107]

McCAP's media campaign regarding "lies about condoms" apparently undermines condom use even among adults. Raylene Silver, an HIV/AIDS educator in McLennan County, told Human Rights Watch that an adult injecting drug user told her that he did not use condoms because he heard on television that condoms don't work.[108]

McCAP reinforces the message that condoms don't work with pamphlets that instruct, "Danger . . . Beware . . . STDs are not prevented with condom use: 1) some STDs transmit skin to skin; 2) condoms have a 17% failure rate; that's 1 in 6,"[109] and by providing curriculum materials to schools that report that a "meticulous review of condom effectiveness" found that condoms "appear to reduce the risk of heterosexual transmission of HIV infection by only 69 %,"[110] that condoms break or slip as much as 25.5 percent of the time,[111] and that "published reports indicate that condoms are effective in reducing the risk of contracting HIV about 55 to 90 percent of the time."[112]

---

[105] CastNet Multimedia, "Truth for Youth" radio advertisement sponsored by McCAP. McCAP's radio advertisements were aired during "drive time" (7:00 a.m. to 10:00 a.m. and 4:00 p.m. to 7:00 p.m.) from mid-April through the end of August 2002. Human Rights Watch telephone interview with Lori Robinson, media buyer, CastNet Multimedia, August 5, 2002; E-mail message from Lori Robinson to Human Rights Watch, August 5, 2002.
[106] Television advertisement aired during 10:00 p.m. news, May 2002, sponsored by McCAP. McCAP's "Truth for Youth" television advertisements were aired from mid-April through the end of August. Email message from Lori Robinson to Human Rights Watch, August 5, 2002.
[107] Human Rights Watch telephone interview with Planned Parenthood employee, June 26, 2002. Human Rights Watch has not named this employee to maintain her daughter's confidentiality.
[108] Human Rights Watch telephone interview with Raylene Silver, May 7, 2002.
[109] *Is Sex Safe? A Look at Sexually Transmitted Diseases* (distributed by McCAP in its "Truth4Youth Information Packet").
[110] Teen Aid, *Sexuality Commitment and Family: Student Text* (Spokane, WA: Teen Aid, Inc., 1995), chapter on HIV, p. 10.
[111] Ibid, p.11.
[112] Bruce Cook, *Choosing the Best Life (teacher manual)* (Georgia: Choosing the Best Publishing LLC), p. 37.

Becky Mosby, the education director at McCAP, told Human Rights Watch that McCAP discusses contraception in terms of "human use reality rates." "I'm not going to tell you what the condom company says the rate is, because they're selling a product, so they'll promote it in the best light possible." And, "human use reality rates" are poor for teens and even for those at obvious risk of HIV infection. According to Mosby, "teens who use condoms consistently and every time they have sex are more likely to stop using condoms. And there's a huge study that shows where one married partner has HIV, they don't use condoms consistently."[113] Other Texas abstinence-only programs also emphasize adolescents' poor history of condom use.[114] However, even were they so inclined, these programs cannot address this concern by providing instruction regarding proper condom use because they are barred by federal law from "promoting or endorsing" contraception or otherwise providing information inconsistent with the federal abstinence-only guidelines.[115]

Sally Fleming, who teaches in a McLennan County school that uses McCAP materials, expressed concern about exaggerated ineffectiveness information provided to students by McCAP:

> I can tell my students that there's a lot of data that says that condoms aren't effective in preventing disease and pregnancy. But when someone from McCAP comes and tells the students that condoms have a 77 percent failure rate, or something like that, I tell them that that's not correct. I say that they can get statistics from Planned Parenthood and from McCAP about condoms' effectiveness and that they need to be aware where the information is coming from.[116]

"Sex is Not a Game," a video produced by the Medical Institute for Sexual Health (Austin, Texas), includes information about sexually transmitted diseases and their incidence among young people. Discussion of condoms is limited to the advisory that "Condoms aren't much good against the most common sexual infection anyway. Condoms provide limited, if any, protection against HPV [human papilloma virus, a sexually transmitted disease]."[117]

Another Medical Institute publication suggests that condoms may "seem" to prevent HIV, but HIV's "low infectivity," rather than condom use, may explain some of the purported effectiveness of condoms:

> [G]eneralizing condom effectiveness from diseases with low infectivities (for example, HIV) and using these results to predict condom effectiveness in diseases with higher infectivities (for

---

[113] Human Rights Watch interview with Becky Mosby, April 30, 2002.

[114] *See, for example,* Scott & White Sex Education Program, *Teens and Sex: What are the Effects*, second edition (Temple, Texas: Worth the Wait, Inc., 2001), slide 55; Scott & White Sex Education Program, *What Adults Need to Know About Teens and Sex*, second edition (Temple, Texas: Worth the Wait, Inc., 2001), slide 68.

[115] Human Rights Watch telephone interview with Michele Lawler, director, Abstinence Education Program, Maternal and Child Health Bureau, Health Resources and Services Administration, U.S. Department of Health and Human Services, June 3, 2002; Mathematica Policy Research Institute, Inc., *The Evaluation of Abstinence Education Programs Funded Under Title V Section 510: Interim Report*, p. 4.

[116] Human Rights Watch telephone interview, May 4, 2002.

[117] "Sex is Not a Game," video produced by the Medical Institute for Sexual Health. A discussion guide accompanying the video asks "If we're practicing safe sex, what's wrong with it?" and answers "Condoms don't make sexual activity safe. They can slip or break, they must be used absolutely correctly and consistently 100% of the time (the CDC reports 7 steps to proper condom usage) and even if they are used consistently and correctly, condoms provide limited (if any) protection against some STDs, including HPV. HPV causes over 99% of all cervical cancer in women. 93% of clinically significant pre-cancerous lesions detected by Pap smears contain high risk strains of HPV." Discussion Guide accompanying *Sex is Not a Game* (Austin, Texas: Medical Institute for Sexual Health, 2001), p. 4.

In *Building Healthy Futures: Tools for Helping Adolescents Avoid or Delay the Onset of Sexual Activity*, the Medical Institute asserts that "condom promotion is typically conducted under the banner of HIV prevention. For this purpose they are reasonably effective. For other STIs, however, they are less effective. Since these other STIs are more common than HIV among adolescents, condom promotion as a primary strategy makes little sense. Adolescents remain susceptible to the most common STIs, even if they use condoms." Joshua Mann et al., *Building Healthy Futures: Tools for Helping Adolescents Avoid or Delay the Onset of Sexual Activity* (Austin, Texas: The Medical Institute for Sexual Health, 2000), p. 14.

> example, gonorrhea, chlamydia) is not an honest or valid generalization. . . . Most STDs are more infectious than HIV. In fact, the very low infectivity of HIV—even when condoms are not used—partially explains why condoms seem to prevent HIV infection. In this situation, at least a portion of the reported condom "effectiveness" is due to the small chance of contracting HIV during a single act of vaginal intercourse with an infected partner even if condoms are not used.[118]

Dr. McIlhaney told Human Rights Watch that he mentions condoms as a method of reducing the risk of HIV, but also says that once infected, it's for life and you'll probably die from AIDS or something else. He also advises that "anyone infected with HIV needs to consider never having sex again (at least not penetrative sex) because you can transmit HIV even using condoms."[119]

Linda Grisham, a science teacher at Temple High School who is working on Scott & White's new ninth grade curriculum, told Human Rights Watch that she plans to use an activity she learned at a recent teacher training to show how condoms are not effective. Participants are given cut-up pieces of plastic or latex of different strengths and thicknesses and asked to identify which one is a condom, a rubber glove, or a plastic bag. "We were shown how condoms were one of the thinnest kinds of plastic [sic] and how easy they were to break with a fingernail."[120]

Grisham explained that her HIV prevention curriculum promotes abstinence until marriage as the "way to go."

> Look at condoms: they don't work. I show the percentages of times that condoms don't work and tell the students that most kids that use condoms don't use them correctly, because they puncture them, or don't put them on all the way. I allow kids to know that maybe condoms will help, but they're not 100 percent safe. I try not to tell them that "it's better than nothing." Condoms are not safe sex, because it doesn't prevent against sexually transmitted diseases.[121]

Dr. Patricia Sulak told Human Rights Watch, "I tell kids that condoms are effective in reducing the risk of HIV if used every time and before genital-to-genital contact. They will reduce the risk of HIV, but not other diseases. I tell them that they have to decide if condoms are good enough for them, given the percentages. I don't teach the sixteen steps of condom use or how to use them."[122]

Pledging Virginity to Prevent Disease, and "Renewed Virginity"

All of the programs that Human Rights Watch visited in Texas included a "virginity pledge" as a part of their respective programs. These pledges are included as part of the abstinence-only school curricula.[123] Some programs also hold public virginity pledge ceremonies at which students vow before their parents and other community members to remain virgins until marriage. McCAP, for example, hosts "A Night to Last a Lifetime,"

---

[118] The Medical Institute for Sexual Health, *Sexual Health Update*, Fall 2000, p. 2.

[119] Human Rights Watch interview with Dr. Joe McIlhaney, May 10, 2002.

[120] Human Rights Watch interview with Linda Grisham, May 6, 2002.

[121] Ibid.

[122] Human Rights Watch interview with Dr. Patricia Sulak, May 1, 2002.

[123] McCAP distributes "Abstinence 'til Marriage (ATM)" cards, which state that "The person whose signature appears above agrees to the ATM (Abstinence 'til Marriage) terms. Sex outside of marriage is an indebtedness that can produce negative returns (i.e., STD's, pregnancy, abortion, unwanted memories and/or broken heart) and all assets can be potentially lost (death), however the returns of an investment in an ATM can yield greater respect for yourself, others and your future husband/wife. Adherence to the conditions of this ATM card can yield greater rates of return in fidelity between couples in future mergers and acquisitions (marriage)." Scott & White's "Abstinence pledge card" reads, "Starting today, I _____ commit to abstain from sexual activity until marriage. I understand this is the only proven way to protect myself from premarital pregnancy and giving someone an STD. I respect myself and choose to wait." The "Mi Futuro/My Future" pledge card reads, "I'm saving myself for my future marriage partner. I give myself the freedom to make abstinent choices, to ignore all negative pressures and to enjoy my years as a teenager safe from the risks of premarital sex and all its expected outcomes."

an evening ceremony in which adolescents publicly pledge "before God . . . to avoid all risk behaviors, knowing that choosing to participate in any of them could lead me to a path of confusion and isolation," and to remain sexually abstinent until marriage.[124] Laredo likewise includes a pledge to remain abstinent until marriage as part of its parent/child weekend meeting sessions.[125]

Programs offer two kinds of advice to sexually active youth: first, that they should commit to "secondary" or "renewed virginity" to protect against HIV and other sexually transmitted diseases; and second, that they should go to the doctor and get tested for HIV and other sexually transmitted diseases.

Linda Grisham tells students that "if you're sexually active, you can change your life and from here on in, 'do the right thing and not have sex.' There's still an opportunity to have a second virginity and save your future." She also tells them that "if you're sexually active, you need to see a doctor and get tested for HIV" and other sexually transmitted diseases.[126] Barbara Ducote likewise includes "second chance" virginity among HIV and pregnancy prevention strategies, telling her students that they "may have committed a sexual act in the past, but now commit to monogamy."[127]

This message also appears in the literature produced and distributed by abstinence-only organizations. For example, a pamphlet distributed by McCAP and produced by the Medical Institute advises, "So you've already had sex . . . . [S]et up an appointment with your doctor . . . . Claim your secondary virginity with pride today."[128]

Amy Cavender, a sexuality educator with Community Health Services in San Marcos, Texas, told Human Rights Watch that she is concerned that sexually active youth who have pledged "secondary virginity" may not seek the health care they need, believing that once they've signed the pledge, they'll be protected from both past and future infection.

> Kids have told me that "I'm a virgin now, so I don't have to worry about sexually transmitted diseases any more." I'm concerned that kids who have been sexually active aren't seeking the health care that they need, because if there's nothing obviously wrong with them at the point that they've taken the pledge, they're looking to the future and not considering that they may have acquired an infection in the past.[129]

Likewise, absent more complete advice about the role of testing in HIV prevention—that is, that HIV testing can rule out past risk and is not a prevention strategy in and of itself—advising sexually active students to get tested may actually put individuals at risk of contracting HIV and other sexually transmitted diseases. A recent study of the role of HIV testing in HIV prevention reported that more than 40 percent of women who participated in the study believed that getting tested is a good way to prevent HIV, and that receiving a negative test had no influence on safer sex behavior.[130] Other studies have reached similar conclusions.[131] In addition,

---

[124] In 2001, McCAP collaborated to produce "A Night to Last a Lifetime" with five local churches, who "came together to honor parents and teens in the exchange of vows and commitment to sexual purity." McCAP, *A Collaborator's Guide*, at 3-2; *see also* "A Night to Last a Lifetime: A Family Declaration of Purity," February 12, 2002 (on video; available from McCAP).

[125] City of Laredo application for Section 510 abstinence education funds for fiscal year 2002, Form F4, p. 12.

[126] Human Rights Watch interview with Linda Grisham, May 6, 2002.

[127] Human Rights Watch interview with Barbara Ducote, teacher, Travis Middle School, Temple, Texas, May 6, 2002.

[128] The Medical Institute for Sexual Health, *Sex. Been there. Done that. Now what?*

[129] Human Rights Watch interview with Amy Cavender, Austin, Texas, May 7, 2002.

[130] Theresa M. Exner et al., "HIV Counseling and Testing: Women's Experiences and the Perceived Role of Testing as a Prevention Strategy," *Perspectives on Sexual and Reproductive Health*, vol. 34, no. 2, March/April 2002, pp. 76-83.

[131] *See, for example,* Rani Marx et al., "Linking Clients from HIV Antibody Counseling and Testing to Prevention Services," *Journal of Community Health*, vol. 24, no. 3, June 1, 1999, pp. 201-214; Deborah Lupton et al., "Doing the Right Thing: The Symbolic Meanings and Experiences of Having an AIDS Antibody Test," *Social Science and Medicine*, vol. 41, no. 2 (1995), pp. 173-180.

BEST COPY AVAILABLE

students need to understand that there is a period of time after exposure during which HIV infection may not be detectable by HIV tests (the "window period") and therefore an HIV-infected person may receive a negative test result during this period.

There also is evidence that adolescents who pledge virginity may ultimately be at increased risk of HIV/AIDS infection. A study of virginity pledges often cited by abstinence-only groups found that although there is some evidence that these pledges delay intercourse by an average of eighteen months, as virginity pledges become the norm, they lose their allure and thus their effect. This study also found that virginity pledges have the unintended effect of placing some teens at higher risk of unintended pregnancy and STDs, because teens who break the pledge are one-third less likely than nonpledgers to use contraceptives once they do become sexually active.[132]

Referrals for Other Information

The U.S. Department of Health and Human Services, which administers the abstinence-only education programs, advises that if a participant asks for information about contraception, an abstinence-only program can provide a referral to a third party (such as a health department) for more information, but that referrals should be given in response to a question and not as part of the regular program.[133]

In practice, teachers in abstinence-only programs have varied practices with respect to the referrals they make. As already noted, teachers in Laredo's "Mi Futuro/My Future" programs do not discuss condoms at all. If asked about condoms, they advise students to speak to their parents or to a counselor for more information.[134] Linda Grisham, a Temple High School teacher, told Human Rights Watch that if a student asked where to get condoms, she would say, "this is not what I am promoting. Abstinence is what you should be supporting," and would also tell the student to speak with his or her parents and, perhaps, with a doctor or a counselor.[135] Barbara Ducote, who teaches at a Temple Middle School, told Human Rights Watch that if a student asked where to get condoms, she would send him to one of the local health clinics. She also provides the numbers of the local rape hotline, health clinic and free clinic to the students and encourages students to talk privately with her or a counselor if they have questions.[136]

Crowding Out Other Sources of AIDS Information

Abstinence-only-until-marriage programs crowd out other sources of HIV/AIDS prevention information for children. Texas' commitment to abstinence-only education has affected HIV prevention education that is provided through programs funded by the Centers for Disease Control and Prevention (CDC). Other states' commitment to abstinence-only education has influenced the decision to refuse federal funding for school health HIV/AIDS prevention programs altogether or to condition the acceptance of federal HIV/AIDS prevention funds on compliance with strict abstinence-only guidelines.

---

[132] Peter S. Bearman and Hannah Brückner, "Promising the Future: Virginity Pledges as they Affect Transition to First Intercourse," *American Journal of Sociology*, vol. 106, no. 4 (2001), pp. 859-912. That pledgers "are less likely to be prepared for an experience that they have promised to forgo . . . suggests that pledgers, like other adolescents, may benefit from knowledge about contraception and pregnancy risk, even if it appears at the time that they do not need such knowledge." Ibid, p. 900.

[133] Human Rights Watch interview with Michele Lawler, director, Abstinence Education Program, U.S. Department of Health and Human Services, June 3, 2002.

[134] Human Rights Watch interview with Charmaine Heimes, master teacher, "Mi Futuro/My Future" Abstinence Education Program, Laredo, Texas, May 9, 2002; Human Rights Watch interview with Erika Ramirez, health trainer, "Mi Futuro/My Future" Abstinence Education Program, Cigarroa Middle School, Laredo, Texas, May 9, 2002. It is unclear whether referral to a school-based counselor has any practical significance for students in schools with abstinence-only programs. As discussed above, counselors and other school-based health professionals may feel constrained to censor information about condoms and contraception.

[135] Human Rights Watch interview with Linda Grisham, May 6, 2002.

[136] Human Rights Watch interview with Barbara Ducote, May 6, 2002.

BEST COPY AVAILABLE

Since 1987, the CDC has provided funds and technical assistance to state, county and large-city education agencies for HIV prevention education.[137] These funds are distributed via a grant program that funds HIV prevention education (the " CDC HIV/AIDS grant" or "HIV grant"); expanded health education that addresses other priority health risks (such as prevention of tobacco use, prevention of heart disease, diabetes and cancer and promotion of healthy lifestyle behaviors); and national training and demonstration centers for HIV prevention, chronic disease and local education agency support.[138] All applicants must apply specifically for the HIV grant and only those programs that are approved for the HIV grant qualify for funding for the other programs.[139] In 2002, the CDC received about $50 million to support HIV prevention education in forty-eight states, seven territories and nineteen large metropolitan areas.[140]

The CDC school health education funds are intended to be used to support state and local school health initiatives: "to expand and strengthen the capacity of [state and local education agencies] to plan, carry out and evaluate coordinated school health programs, to address significant health problems that affect young persons (especially HIV infection, tobacco use, sedentary lifestyle and dietary patterns that result in disease)."[141] The CDC grantmaking guidelines require that AIDS-related written, audiovisual and pictorial materials used by grant recipients include information about the benefits of abstinence.[142] Grant recipients are not, however, bound by CDC guidelines that recommend that adolescents be provided with information about the proper use of condoms to reduce the risk of HIV infection.[143] In addition, grantees must still comply with their respective state education regulations. Texas schools, for example, must follow Texas' abstinence-only legislation.[144]

Texas' state education agency (the Texas Education Agency or TEA) receives about $300,000 annually in HIV grant funds for the state of Texas. TEA spends about one third of these funds on administration and distributes the remainder to twenty regional "Education Service Centers," which each receive between $5,000 and

---

[137] The CDC's technical assistance includes assisting schools in policy development and with the development and dissemination of materials and resources, training teachers and other school personnel, monitoring prevalence of risk behaviors among students and the status of HIV education in different jurisdictions, and evaluating the impact of programs and activities. Centers for Disease Control and Prevention Program Announcement Number 805: School Health Programs to Prevent Serious Health Problems and Improve Educational Outcomes, p. 8.

[138] Human Rights Watch telephone interview with Marty DuShaw, health education specialist, Division of Adolescent Health Services, Centers for Disease Control and Prevention, May 28, 2002; Centers for Disease Control and Prevention Program Announcement Number 805: School Health Programs to Prevent Serious Health Problems and Improve Educational Outcomes.

[139] Centers for Disease Control and Prevention Program Announcement Number 805: School Health Programs to Prevent Serious Health Problems and Improve Educational Outcomes, pp. 1-2.

[140] Centers for Disease Control and Prevention, *Healthy Youth: An Investment in Our Nation's Future* (2002), p. 3.

[141] Centers for Disease Control and Prevention Program Announcement Number 805: School Health Programs to Prevent Serious Health Problems and Improve Educational Outcomes, pp. 9-10.

[142] Ibid., p. 49. Grantees must comply with the CDC's *Content of AIDS-Related Written Materials, Pictorials, Audiovisuals, Questionnaires, Survey Instruments, and Educational Sessions in Centers for Disease Control and Prevention (CDC) Assistance Programs*, which requires that written, audiovisual and pictorial materials be reviewed consistent with 42 U.S.C. §§ 300ee(b), (c) and (d), a federal statute that mandates that AIDS-related instructional materials must include information about abstinence, and that messages should be guided by principles in CDC's *Guidelines for Effective School Health Education to Prevent the Spread of AIDS*, *MMWR* vol. 37(S-2), Jan. 29, 1988, pp. 1-14.

[143] Ibid.

[144] *See* Tex. Educ. Code § 28.004(e).

$8,000 to spend on HIV prevention activities.[145] Dallas and Houston each get separate funding under the same grant.[146]

Texas began receiving CDC funds for school health programs for HIV/AIDS prevention in 1988. In 1995, the Texas Education Agency decided not to seek further funding from the CDC for school health programs for HIV/AIDS prevention, thereby forgoing $1.35 million ($450,000 for three years) in CDC funding.[147] Texas Education Commissioner Mike Moses made this decision out of his concern that CDC requirements would conflict with Texas' new education code, which requires that course materials and instruction emphasize abstinence from sexual activity "as the only method that is 100% effective in preventing pregnancy, sexually transmitted diseases," HIV/AIDS, and the "emotional trauma associated with adolescent sexual activity," and which gives local school districts greater responsibility for their curricula.[148]

Despite Moses' concern, the grant guidelines do not promote or prohibit any specific instruction or methodology, but state that

> Recipients of funding are responsible for conducting activities that establish, strengthen, or expand HIV and STD prevention education and integrating such education into existing comprehensive school education. . . . Applicants are expected to assist school districts/local schools in developing, strengthening and implementing planned, sequential, skills-based comprehensive school health curricula intended to prevent behaviors that will result in HIV/STD infection.[149]

Commissioner Moses reportedly notified the CDC that Texas would accept the CDC HIV/AIDS prevention grant if the CDC provided written assurance that Texas school districts would be allowed to teach the abstinence-only curriculum.[150] Moses ultimately decided to accept the CDC HIV/AIDS funding, telling the state Board of Education that he changed his mind about the grant after receiving assurances from the CDC that the

---

[145] Human Rights Watch telephone interview with Kathy van Teecklenburgh, state HIV/STD program specialist, Region 10 Educational Service Center, May 5, 2002; Human Rights Watch telephone interview with Tommy Fleming, director, Health and Physical Education, Division of Curriculum and Professional Development, Texas Education Agency, May 22, 2002. Regional Educational Service Centers are charged with "assist[ing] school districts in improving student performance in each region of the system"; "enabl[ing] school districts to operate more efficiently and economically"; and "implement[ing] initiatives assigned by the legislature or the commissioner." Tex. Educ. Code § 8.002; *see also* Tex. Educ. Code § 8.051 (ESC core services and services to improve performance).

[146] Dallas receives about $250,000 per year; Houston receives about $264,000 per year. Human Rights Watch interview with Marty DuShaw, May 28, 2002.

[147] Letter from Mike Moses, commissioner of education, Texas Education Agency to Elizabeth Taylor, grants management officer, Grants Management Branch, Centers for Disease Control and Prevention, November 2, 1995. At the time of this decision, Commissioner Moses' predecessor had suspended the state's acceptance of previous grant funds for the previous eleven months, following a controversy over materials developed with the CDC grant. Associated Press, "Education Chief Says He Will Re-Examine AIDS Grant Rejection," *San Antonio Express-News*, November 15, 1995. At the same time, Texas also rejected a plan to obtain $500,000 from the CDC to supplement existing school health programs. According to Commissioner Moses, the Texas Education Agency lacked the resources "to apply for, let alone administer" this grant. Mike Moses, "Health Directions: Education Chief Answers Critics on Grant Money," *Austin American-Statesman*, December 9, 1995, at A13.

[148] Tex. Educ. Code § 28.004(e)(3); Mike Moses, "Health Directions: Education Chief Answers Critics on Grant Money," *Austin American-Statesman*, December 9, 1995, at A13.

[149] Centers for Disease Control and Prevention Guidance and Considerations for Planning Non-Competing Continuation Applications for Fiscal year 1995: Cooperative Agreements for State and Local Comprehensive School Health Programs to Prevent Important Health Problems and Improve Educational Outcomes, at 2; *see also* Centers for Disease Control and Prevention Program Announcement Number 805: School Health Programs to Prevent Serious Health Problems and Improve Educational Outcomes, pp. 9-10.

[150] Mike Moses, "Health Directions: Education Chief Answers Critics on Grant Money," *Austin American-Statesman*, December 9, 1995, at A13.

grant would not require Texas schools to teach a specific health curriculum.[151] George W. Bush, then Texas governor, praised Moses' actions, stating "He accomplished exactly what he set out to do, and as a result, Texas schools will get federal funds without federal mandates on how to teach health education."[152]

For the past several years, Texas' statewide regional CDC HIV/AIDS prevention grants have mostly funded workshops about school health education advisory councils (such as how to set up a council), which are mandated by law to advise school boards regarding curriculum materials on sexuality education and education on HIV/AIDS and other sexually transmitted diseases.[153] Otherwise the CDC HIV/AIDS grant has funded abstinence education trainings and trainings on the development of "refusal skills."[154]

Tommy Fleming, director of health and physical education, Division of Curriculum and Professional Development at the TEA, who oversees the administration of the statewide CDC HIV/AIDS grant, told Human Rights Watch that in the early 1990s, he worked with TEA to provide comprehensive workshops on HIV/AIDS prevention for public school teachers, school nurses and school administrators. These workshops advised that abstinence was the best prevention against HIV but also included instruction about condoms as a method of HIV prevention. Fleming hasn't given this kind of presentation (that is, including instruction about condom use as a means of HIV prevention) since at least 1995 and expressed doubt that any such information about condoms was being provided by the regional Educational Service Centers, except, perhaps, in Dallas and Houston. Fleming attributes this change in focus in part to the state's conservative views about sexuality education, as well as the 1995 Texas state law giving local school districts control over sexuality education and education about HIV/AIDS and other sexually transmitted diseases.[155]

Tamara Rhodes, an HIV/AIDS educator for the Region 16 Education Service Center, told Human Rights Watch that she plans to use the CDC HIV/AIDS grant funds to teach refusal skills and hold a training for school health education advisory councils on health problems in the area, including teen pregnancy and HIV/AIDS. She told Human Rights Watch that in her HIV/AIDS presentations, she does not teach about condoms as part of HIV prevention because she has been advised by school nurses that school administrators in her area won't allow her to do so and because of community concerns that people should remain abstinent until marriage to prevent pregnancy and disease.[156]

Clara Contreras, a health specialist for the Region 1 Education Service Center, which covers Laredo, has used the CDC HIV/AIDS grant to teach refusal skills and "self-control" in middle and elementary schools and has given training about school health education advisory councils. She also conducts HIV training for adult professionals in the schools. Contreras told Human Rights Watch "when I mention condoms, it's very brief. Some schools, like the abstinence-only schools, are not allowed to give out resources (like referrals to clinics or information about condoms or about the clinics)." This year, she would like to hold a skill development training, in which she will mention "very briefly that condoms may reduce the risk of HIV, but they can break. For that

---

[151] A. Phillips Brooks, "Moses Decides to Accept AIDS Grant; Education Chief Changes Mind After Being Assured of No U.S. Dictates," *Austin-American Statesman,* January 12, 1996, p. B1. Pete Hunt, who works on this HIV grant program at the CDC, told Human Rights Watch that there was no conflict between the federal requirements and Texas state law. The CDC pointed out to Moses the language in the grant that supported the state's flexibility to carry out HIV/AIDS prevention programs. Human Rights Watch telephone interview with Pete Hunt, team leader, Division of Adolescent Health Services, Centers for Disease Control and Prevention, June 26, 2001.

[152] A. Phillips Brooks, "Moses decides to accept AIDS grant; Education chief changes mind after being assured of no U.S. dictates," *Austin American-Statesman*, January 12, 1996, at B1.

[153] Human Rights Watch telephone interview with Tommy Fleming, May 22, 2002; Tex. Educ. Code § 28.004(e).

[154] Human Rights Watch telephone interviews with Tommy Fleming, May 22, 2002 and June 13, 2002. "Refusal skills" are those skills necessary to reject unwanted sexual pressure or participation in other behavior that might put one at risk of HIV/AIDS.

[155] Ibid.

[156] Human Rights Watch telephone interview with Tamara Rhodes, May 22, 2002.

message to get to the classroom, the teachers would bring it back, but they're not allowed to speak about this unless the SHAC [school health education advisory council] allows them to."[157]

Like Texas, other states' abstinence-only policies have influenced their use of federal funding for HIV/AIDS prevention education. Ohio's commitment to abstinence-only education has influenced its decision to refuse federal funding for school health HIV/AIDS prevention programs altogether since 2000 out of concern that the funds would support programs that interfere with that commitment, while Nebraska has applied its state abstinence-only guidelines to programs funded by the CDC HIV/AIDS school health prevention grant.

Previously, Ohio received about $800,000 per year in CDC health education funding for both HIV/AIDS prevention and for a comprehensive school health education program that included funding for prevention education for heart disease, cancer and diabetes, programs to improve nutrition and increase physical activity, and antitobacco programs. In June 1999, the Ohio legislature passed an amendment to a state budget bill that prevented the Department of Education from spending CDC health education funding on sex education until the legislature held hearings approving a model health curriculum for the state.[158] According to Rep. Jim Jordan, the Ohio legislator who pushed for the law that froze the money, "the goal of the hearings [was] to clarify that sex ed programs should emphasize abstinence" and to find out why the Education Department had accepted an HIV/AIDS training program that included information about contraceptive use.[159]

In January 2000, the legislature held two days of hearings. At the start of the hearings, an announcement was made that the Department of Education was planning to submit a workplan to the CDC that would require that HIV/AIDS education be provided consistent with abstinence-only education.[160] After two days of hearings, no vote was taken and in March, an Ohio House of Representatives committee tabled the issue.[161] As a result, the state Department of Education could not submit a workplan to the CDC and therefore could not receive any of the CDC health education funds. Because approval of the HIV/AIDS funding was required for approval of the funding for expanded school health education, once the state Department of Education could not accept the HIV/AIDS education grant, it could not accept funding to support other programs supported by the grant.[162] Consequently, in rejecting the HIV/AIDS prevention money, the state also rejected thousands of dollars that were earmarked to support programs directed at education related to chronic diseases and other serious health problems. Ohio still receives no CDC health education funding under these grants.[163]

Since 1997, Nebraska has had a strict state school board policy that mandates that all state-sponsored health education comply with federal abstinence-only guidelines.[164] Until 2001, the CDC-funded HIV education program there was exempt from these guidelines. When this exemption was brought to the attention of members of the state Board of Education in 2001, they asked the HIV prevention coordinator to draft and defend a policy

---

[157] Human Rights Watch telephone interview with Clara Contreras, June 14, 2002.

[158] Andrew Welsh-Huggins, "State Holding Hearings on Sex Education Training Grant," *Associated Press Newswires*, January 20, 2000. Rep. Jim Jordan sponsored two bills: one requiring committee hearings and a model health curriculum; a second preventing the department from spending the money on sex education until the hearings were held. Ibid.

[159] Andrew Welsh-Huggins, "State Holding Hearings on Sex Education Training Grant," *Associated Press Newswires*, January 20, 2000.

[160] Human Rights Watch telephone interview with Susan Wooley, executive director, American School Health Association, June 27, 2002.

[161] Ibid.; Stephen Ohlemacher, "Ohio Spurns U.S. Grant in Sex Ed Controversy," *The Plain Dealer*, January 22, 2000.

[162] Human Rights Watch telephone interview with Marty DuShaw, health education specialist, Division of Adolescent Health Services, Centers for Disease Control and Prevention, May 28, 2002; Human Rights Watch telephone interview with Pete Hunt, team leader, Division of Adolescent Health Services, Centers for Disease Control and Prevention, June 26, 2002. In 1999, Ohio passed a law requiring that "instruction in venereal disease education . . . emphasize that abstinence from sexual activity is the only protection that is one hundred per cent effective against unwanted pregnancy, sexually transmitted disease and the sexual transmission of a virus that causes acquired immunodeficiency syndrome." Ohio Rev. Code Ann. § 3313.6011 (Baldwin 2002).

[163] Human Rights Watch telephone interview with Marty DuShaw, May 28, 2002.

[164] Human Rights Watch telephone interview with Donlynn Rice, administrator of curriculum and instruction, Nebraska Department of Education, June 25, 2002; Nebraska Department of Education, *Health Education Frameworks* (1998).

that officially exempted the HIV program from the abstinence-only guidelines.[165] An HIV/AIDS prevention policy was proposed that would allow the Nebraska Department of Education to provide schools with a program that was not exclusively abstinence-only, but abstinence-based (that is, teach students about both abstinence and safer sex, including condom use). After holding hearings to consider the policy, the Board voted 4-4 on a motion to allow the HIV program to be abstinence-based; since the vote was a tie, the proposed "abstinence-based" policy was rejected.[166] The Board then adopted a new policy that requires that HIV/AIDS education be limited to grades kindergarten through six, instead of kindergarten through twelve; be used to provide teacher training only and not classroom education to students; and comply with abstinence-only guidelines mandated for sexuality education.[167]

The Commissioner of the Department of Education initially stated that the department would not renew its CDC grant when it expired in November 2001 because it could not find any abstinence-only curricula that did not include religious references and did not discuss condoms or other birth control options.[168] The Department of Education ultimately decided to accept the funding, which it plans to use to assist local school districts in determining how to carry out HIV prevention education consistent with the required abstinence-only strategy and to find materials that reinforce abstinence as a method of HIV prevention.[169]

Federal Review of HIV/AIDS Prevention Programs

Since 2001, the Office of the Inspector General of the U.S. Department of Health and Human Services (DHHS) has been auditing federally funded HIV/AIDS prevention programs. An initial audit was conducted in the fall of 2001 in response to concerns raised by Congressman Mark Souder (Republican-Indiana) regarding CDC funding of several "questionable events over the past several years dubbed as HIV 'prevention' programs'" at San Francisco's Stop AIDS Project, Inc.[170] The audit concluded, among other things, that Stop AIDS used some of its CDC funding for HIV prevention workshops and materials that could be construed as obscene and encouraging sexual activity, in violation of CDC guidelines.[171] DHHS' audit of Stop AIDS prompted Secretary Thompson to order a review of DHHS-funded HIV/AIDS activities "to assess the need for enhanced accountability and performance measures in these activities" and to have DHHS' Office of the Inspector General "conduct a more comprehensive review of CDC's HIV/AIDS program activities focusing specifically on appropriate use of Federal funds, effectiveness of the programs, and whether program review panels are carrying out their duties as prescribed."[172]

The Department of Health and Human Services also is reviewing the federal government's financial support of sixteen prominent AIDS advocacy organizations whose members joined in a loud protest of Secretary Thompson's July 2002 address at the International AIDS Conference in Barcelona. This review was initiated after twelve members of Congress, including Mark Souder, wrote to DHHS requesting that the agency provide an accounting of all U.S. federal assistance for the conference and the names and affiliations of individuals who attended the conference with federal assistance, and following an electronic mail request to DHHS by a staffer for

---

[165] Martha Kempner, "Fewer Debates About Sexuality Education as Abstinence-only Programs Take a Foothold," *SIECUS Report*, vol. 29, no. 6, August/September 2001, pp. 4-5.

[166] Human Rights Watch telephone interview with Donlynn Rice, June 25, 2002; Angie Brunkow, "Schools Rethink Sex Ed: Telling Students About Condom Use Goes Against a State Policy of Teaching Abstinence Only," *Omaha World-Herald*, March 3, 2001, p. 1.

[167] Human Rights Watch telephone interview with Donlynn Rice, June 25, 2002.

[168] Associated Press, "No Renewal for Program About AIDS," *Lincoln Journal Star*, August 11, 2001.

[169] Human Rights Watch interview with Pete Hunt, June 25, 2002.

[170] Memorandum from Janet Rehnquist, Inspector General, U.S. Department of Health and Human Services, to Secretary Tommy Thompson, October 12, 2001.

[171] Ibid. CDC's guidelines for the content of HIV prevention materials instruct that no funds "be used to provide education or information designed to promote or encourage, directly, homosexual or heterosexual activity or intravenous substance abuse," and not be "obscene." Centers for Disease Control and Prevention, *Content of AIDS-related Written Materials, Pictorials, Audiovisuals, Questionnaires, Survey Instruments, and Educational Sessions in Centers for Disease Control and Prevention (CDC) Assistance Programs*, http://www.cdc.gov/od/pgo/forms/hiv.htm (retrieved on August 5, 2002).

[172] Letter from Secretary Thompson to Congressman Mark Souder, November 14, 2001; *see also* Memorandum from Janet Rehnquist to Secretary Thompson, October 12, 2001.

BEST COPY AVAILABLE

the House Government Reform subcommittee on criminal justice, drug policy and human resources (which Souder chairs) requesting information on financial assistance provided to twelve organizations that "led the demonstration that shut down Secretary Thompson during his address last week."[173]

Agencies engaged in HIV/AIDS prevention work have expressed concern that the federal audits and reviews have a chilling effect on prevention campaigns. According to Len Pappas, the president of Better World Advertising, the threat of audits has caused some of the company's AIDS prevention clients to censor themselves and tone down their advertising campaigns because they don't want to be singled out for scrutiny in the new round of audits.[174] Darlene Weide, the executive director of Stop AIDS, believes that the government audit of prevention projects is likely to have a negative impact on programs that target youth and men who have sex with men, particularly if they use specific sexual terminology and street language to get the message across. "This investigation can have very serious and dangerous consequences. The biggest consequence is that people's lives are in danger, and this is not the time to threaten prevention spending."[175] Robert Dabney, communications director for the National Minority AIDS Council, which provides assistance to 400 AIDS organizations in the African American, Hispanic, Asian and Native American Communities and which has been asked by DHHS to document its spending at the Barcelona conference, likewise reported his fear that audits of his organization will have a chilling affect on the organizations that it assists.[176]

VII. DISCRIMINATION BASED ON GENDER AND SEXUAL ORIENTATION

Lesbian, gay, and bisexual school-age youth in the United States are frequently subjected to violence, harassment and discrimination at school, as Human Rights Watch has documented elsewhere.[177] Lesbian, gay and bisexual youth, confronted with the stress of dealing with such treatment on a regular basis, have been shown in some settings to be more likely than their heterosexual peers to use alcohol or other drugs and engage in sexual behaviors that put them at risk of HIV/AIDS.[178] Young men who have sex with men face a significant risk of HIV/AIDS infection, as HIV/AIDS incidence and prevalence among young men who have sex with men remains high.[179]

---

[173] David Brown, "HHS Studies Funding of AIDS Groups. Protest at Speech Fueled Audit Request; Activists Cite Fear of Retaliation," *Washington Post*, August 19, 2002, p. A1; Letter from members of Congress to Secretary Thompson, July 17, 2001. The staffer later updated his request to expand the list to sixteen groups. Brown, "HHS Studies Funding of AIDS Groups." The members of Congress who wrote the letter all are members of the Congressional Values Action Team. E-mail message from Roland Foster to Human Rights Watch, August 19, 2002.

DHHS reportedly is "working feverishly" to obtain this information. A staffer for one of the Congressman who requested this review commented that he "doubt[ed] that there is any real plan to do anything with this information. Right now these members just want to expose any abuses that exist. Sometimes sunlight is the best disinfectant." Brown, "HHS Studies Funding of AIDS Groups."

[174] Charles Ornstein, "Explicit Ads Prompt a Review of U.S. AIDS Prevention Grants," *Los Angeles Times*, January 4, 2002, p. A1.

[175] "Are Prevention Programs Falling Prey to Political Pressure?" *AIDS Alert*, vol. 17, no. 3 (March 1, 2002).

[176] David Brown, "HHS Studies Funding of AIDS Groups. Protest at Speech Fueled Audit Request; Activists Cite Fear of Retaliation," *Washington Post*, August 19, 2002, p. A1.

[177] *See* Human Rights Watch, *Hatred in the Hallways: Violence and Discrimination Against Lesbian, Gay, Bisexual, and Transgender Students in U.S. Schools* (New York: Human Rights Watch, 2001); *see also* National Education Association, *Report of the Task Force on Sexual Orientation*, January 14, 2002; Susan Blake et al., "Preventing Sexual Risk Behaviors Among Gay, Lesbian, and Bisexual Adolescents: The Benefits of Gay-Sensitive HIV Instruction in Schools," *American Journal of Public Health*, vol. 91, no. 6, June 2001, p. 940 (citing studies).

[178] Blake, et al., "Preventing Sexual Risk Behaviors Among Gay, Lesbian, and Bisexual Adolescents: The Benefits of Gay-Sensitive HIV Instruction in Schools," p. 940 (citing studies); Human Rights Watch, *Hatred in the Hallways*, pp. 68-72.

[179] According to the Centers for Disease Control, during the period June 2000 through June 2001, young men who have sex with men accounted for 58 percent of HIV cases among thirteen-to-nineteen-year-old males and 23 percent of all cases in this age group, and 55 percent of HIV cases among twenty-to-twenty-four year-old males and 33 percent of all HIV cases among the latter group. Centers for Disease Control, *HIV/AIDS Surveillance Report: Midyear Edition* , vol. 13, no. 1 (2001), p. 21. *See also* Linda A. Valleroy et al., "HIV Prevalence and Associated Risks in Young Men Who Have Sex with Men," *Journal of the American Medical Association*, vol. 284, no. 2, July 12, 2000, pp.198-204.

BEST COPY AVAILABLE

HIV/AIDS and sex education that addresses the sensitivities of lesbian, gay and bisexual youth has been associated with a reduction in high-risk sexual behavior among this population. A recent study rated fifty-nine schools according to the extent to which teachers perceived the HIV instruction provided in the schools to be sensitive and appropriate to the needs of lesbian, gay and bisexual students. The study found that lesbian, gay and bisexual students in schools who received a "high" level of gay-sensitive instruction were less likely to have had sex in the previous three months, had fewer sexual partners, and were less likely to have used alcohol or drugs prior to last sexual intercourse than lesbian, gay and bisexual students who received "none or minimal" or a low level of gay-sensitive instruction.[180] The study noted that effective prevention programs for lesbian, gay and bisexual students are characterized by "inclusive instruction, adequate support services, acknowledgment of diversity, and a nondiscriminatory school climate."[181]

By definition, however, federally funded abstinence-only programs cannot provide HIV/AIDS or comprehensive sex education that respects the rights and needs of gay, lesbian and bisexual youth. As already noted, federal law requires that federally funded abstinence-only education programs must either teach that a "mutually faithful monogamous relationship in context of marriage is the expected standard of human sexual activity"; that "sexual activity outside of the context of marriage is likely to have harmful psychological and physical effects"; and that "bearing children out-of-wedlock is likely to have harmful consequences for the child, the child's parents, and society"; or not provide any information inconsistent with this instruction.[182] Under federal law, "marriage" is limited to "a legal union between one man and one woman as husband and wife"; nor can individuals of the same sex legally marry in any state in the U.S.[183]

In many states, state legislation or policies exacerbate antigay bias regarding HIV/AIDS and sexuality education by barring the discussion of homosexuality altogether except in the context of sexually transmitted diseases, banning instruction that homosexuality is acceptable, or requiring instruction that homosexuality is unacceptable and illegal.[184]

---

[180] Susan M. Blake et al., "Preventing Sexual Risk Behaviors Among Gay, Lesbian, and Bisexual Adolescents: The Benefits of Gay-Sensitive HIV Instruction in Schools," *American Journal of Public Health*, vol. 91, no. 6, June 2001 pp. 940-946. Lesbian, gay and bisexual students in the latter schools were also more likely than their heterosexual schoolmates and than lesbian, gay, bisexual and heterosexual students with moderate or high levels of gay-sensitive instruction to report becoming or getting someone pregnant, having a higher number of recent sexual partners, making a plan to commit suicide, missing school for personal safety reasons, and having property damaged or stolen. p. 942.

[181] Ibid., p. 940.

[182] SPRANS-CBAE programs must emphasize all of these elements. AFLA and Section 510(b) programs need not place equal emphasis on all of them but cannot provide any information inconsistent with them.

[183] *See* Defense of Marriage Act, Pub. L. 104-199, 110 Stat. 2419 (1996) (defining "marriage" and "spouse"). Nor is any state, territory or possession of the United States, or any Indian tribe required to give effect to a same-sex relationship that is treated as a marriage under the laws of another state, territory, possession, or tribe, or a right or claim arising from such relationship. Ibid. A report written for the U.S. House Judiciary Committee identified 1,049 federal laws classified in the United States Code in which marital status is a factor. U.S. General Accounting Office, *Defense of Marriage Act: Categories of Laws Involving Marital Status*, Letter Report GAO/OGC-97-16, January 1997. Vermont permits same-sex couples to get "civil union" licenses that subject parties to the same legal responsibilities and protections as married couples in Vermont but restricts "marriage" to a union between a man and a woman. Vt. Stat. Ann. tit. 15 §§ 1201 et seq (2002).

[184] *See, for example,* S.C. Code Ann. § 59-32-30(A)(5) (barring discussion of "alternate sexual lifestyles from heterosexual relationships including, but not limited to, homosexual relationships except in the context of instruction concerning sexually transmitted disease"); Ariz. Rev. Stat. Ann. § 15-1716 (proscribing schools from including in their course of study about AIDS "instruction which: 1. Promotes a homosexual life-style. 2. Portrays homosexuality as a positive alternative life-style. 3. Suggests that some methods of sex are safe methods of homosexual sex"); Ala. Code § 16-40A-2 (requiring programs on sex education or human reproduction to include, at a minimum, "[a]n emphasis, in a factual manner and from a public health perspective, that homosexuality is not a lifestyle acceptable to the general public and that homosexual conduct is a criminal offense under the laws of the state"); *see also* Tex. Health & Safety Code § 163.002(8) (recommending that the state's model public health education curriculum include emphasis, provided in a "factual manner and from a public health perspective, that homosexuality is not a lifestyle acceptable to the general public and that homosexual conduct is a criminal offence").

These types of restrictions are also contrary to American School Health Association policy, which recommends that "curriculum materials, teaching strategies, and school policies that do not discriminate on the basis of sexual orientation

To comply with their mandate, abstinence-only programs either must avoid any positive or even neutral discussion of homosexuality altogether or must raise it as a negative issue. In so doing, these programs not only discriminate against gay and lesbian youth based on their status; they also deny gay and lesbian youth access to relevant health information and impede their right to an education free from discrimination.

Texas law directs the state department of public health to develop and make available a model curriculum on health education and recommends that course materials and instruction in this curriculum "relating to sexual education or sexually transmitted diseases should include . . . emphasis, provided in a factual manner and from a public health perspective, that homosexuality is not a lifestyle acceptable to the general public and that homosexual conduct is a criminal offence under Section 21.06 of the [Texas] Penal Code."[185] Although this statute, by its terms, applies to the health department's model curriculum, teachers in Texas commonly understand it to impose restrictions on what they can say more generally about homosexuality in the classroom. Amy Cavender, a health educator in central Texas, citing this law, told Human Rights Watch,

> I don't talk about homosexuality except in response to a direct question, because the law says that you have to say negative things about it. Then I'm careful about what I *do* say. When a student *asks* me about homosexuality, I tell them that the law requires me to say that homosexuality is not socially acceptable, but that that's not a reason to treat someone badly.[186]

The abstinence-only programs that Human Rights Watch visited either omit discussion of homosexuality altogether or mention homosexuality only as a risk factor for HIV/AIDS. Several administrators and teachers in these programs interviewed by Human Rights Watch justified the absence of discussion of homosexuality by noting that "the program is developed to promote abstinence until marriage," and, further, that "the community" would not want homosexuality addressed in the school.[187] As Dr. Patricia Sulak, the director of the Scott & White Sex Education Program, told Human Rights Watch, "schools are limited as to what they can say about masturbation and homosexuality."[188]

Kay Coburn, whose school district uses Scott & White's abstinence-only curriculum, explained that there is "no discussion of homosexuality," nor "any message in the curriculum about how homosexuals might protect themselves from HIV. Abstinence is the only message. The traditional family is where you have sex. The curriculum doesn't address sex outside of this structure."[189] Cheryl Cox, a health teacher and council member recalled that when the issue of homosexuality was raised at a Robinson school health education advisory council meeting, the council decided that information about these kinds of "lifestyle options" was "not needed or necessary."[190] In any event, Ms. Cox added, "I can't see it ever being acceptable to discuss homosexuality, as it's

---

should be implemented in schools," and that "sexual orientation should be addressed in the sexuality component of a comprehensive health instruction curriculum." American School Health Association (ASHA), "Gay and Lesbian Youth in School" (1990) in *Compendium of Resolutions* (Kent, Ohio: ASHA, August 1998), www.ashaweb.org/resolutions.html (retrieved on June 17, 2002); *see also* "ASHA Supports Quality Sexuality Education" (1994) in ibid.

[185] Tex. Health & Safety Code § 163.002(8).

[186] Human Rights Watch interview with Amy Cavender, May 7, 2002.

[187] Human Rights Watch interview with Charmaine Heimes, master teacher, "Mi Futuro/My Future" Abstinence Education Program, Laredo, Texas, May 9, 2002; Human Rights Watch interview with Cheryl Cox, health teacher, Robinson High School, Robinson, Texas, May 3, 2002.

[188] Human Rights Watch interview with Dr. Patricia Sulak, director, Scott & White Sex Education Program, Temple, Texas, May 1, 2002. Scott & White's program materials affirmatively state that they are not "talking about homosexuality or masturbation." Scott & White, *Worth the Wait Procedure Manual 2002-2003*, p. 25. Its instructional materials mention homosexuality only as a risk factor for HIV and anal cancer. Scott & White Sex Education Program, *Teens and Sex: What are the Effects*, second edition (Temple, Texas: Worth the Wait, Inc., 2001), slide 48; Scott & White Sex Education Program, *What Adults Need to Know About Teens and Sex*, second edition (Temple, Texas: Worth the Wait, Inc., 2001), slides 39, 48.

[189] Human Rights Watch interview with Kay Coburn, curriculum director for math, science and gifted education, Temple Independent School District, Temple, Texas, May 6, 2002.

[190] Human Rights Watch interview with Cheryl Cox, May 3, 2002.

a very conservative community. It's a topic that I'm not supposed to be talking about because of the standards set forth by the community and by the health advisory board."[191]

Terry Cruz, an abstinence educator in Laredo, told Human Rights Watch that "Probably the only time I touch on the subject [of homosexuality] is with HIV, referring to how HIV originally started."[192] Linda Grisham, a high school teacher who has worked on Scott & White's abstinence-only curriculum in the Temple Independent School District and taught in the program, told Human Rights Watch "We [teachers at Temple ISD] don't talk about homosexuality in a love relationship. We bring it up in certain STDs that are more common among homosexuals. People in a homosexual relationship are more apt to catch AIDS because anal sex is risky."[193]

When asked whether homosexuality was discussed, Clara J., a sixteen-year-old student in a McCAP school replied, "I think that the teacher said something about AIDS being most common among homosexuals," but otherwise could not remember anything being said about gays or lesbians in class.[194] Charles T., a nineteen-year-old gay student from a McCAP school recalled that the teacher's discussion of homosexuality was limited to defining homosexuality and advising that if students had any "feelings like this," they should discuss them with parents or a counselor. The teacher also defined marriage as between a man and a woman. Charles added that gay and lesbian students did not feel safe at school and that even teachers made derogatory comments about homosexuality.[195]

Dr. Joe McIlhaney, president of the Medical Institute for Sexual Health (Austin), told Human Rights Watch that his program does not address homosexuality. "The message to kids in school is 'don't get involved in sex while an adolescent, no matter what.'" In any event, "since 95 percent of the kids are heterosexual and since with the younger ones, there may be lability about sexuality, this may be a situation where it's best to focus on the 'greatest good for the greatest number.'"[196] The Medical Institute does, however, publish guidelines for sexuality education that are distributed by McCAP, among other groups, and included in a resource guide on abstinence education produced under a cooperative agreement with the U.S. Department of Health and Human Services.[197] These guidelines provide advice about answering "tough questions" about homosexuality and bisexuality through a "factual and balanced discussion of homosexuality and bisexuality" that should include, among other points:

- "Homosexual and bisexual sex carry greater risk. Condoms, for example, are more likely to fail and tear during anal intercourse than during vaginal intercourse."[198]
- "A homosexual *orientation* is not the same thing as homosexual *activity*. Some people who have a homosexual orientation decide for health, moral or religious reasons not to practice homosexual sex but to refrain from all genital sexual activity. One celibate homosexual man comments: 'Your sexual behavior is still a choice. I believe I am responsible for what I do. It may not always feel as if I have a choice, but I do.' A heterosexual person has the same choice."[199]
- "Homosexual sex and bisexual sex are highly controversial in our society. Some people regard these activities as acceptable, while others regard them as contrary to what is right and

---

[191] Ibid. Abstinence-only programs do, however, discuss heterosexual sex. *See, for example*, Teen Aid Inc., *Sexuality, Commitment and Family: Student Text* (Spokane, Washington: Teen Aid, Inc., 1995), pp. 45-54; Scott & White Sex Education Program, *Teens and Sex: What are the Effects*, second edition (Temple, Texas: Worth the Wait, Inc., 2001); The Medical Institute for Sexual Health, *National Guidelines for Sexuality and Character Education*, pp. 35, 50-52.

[192] Human Rights Watch interview with Terry Cruz, health trainer, Nixon High School, Laredo, Texas, May 9, 2002.

[193] Human Rights Watch interview with Linda Grisham, May 6, 2002.

[194] Human Rights Watch interview, Waco, Texas, April 29, 2002.

[195] Human Rights Watch Interview, Waco, Texas, May 2, 2002.

[196] Human Rights Watch interview with Dr. Joe McIlhaney, May 10, 2002.

[197] *See* National Center for Education in Maternal and Child Health, *Focus on Abstinence Education*, August 1996, p. 2. The Medical Institute's guidelines are advertised by Focus on the Family, the Eagle Forum and state abstinence education programs, among others.

[198] The Medical Institute for Sexual Health (Austin), *National Guidelines for Sexuality and Character Education* , p. 74.

[199] Ibid.

normal. In discussing this topic, schools should acknowledge and respect the fact that people differ in their opinions about homosexual and bisexual activities. In many cases, however, the charge of 'homophobia' has been used inappropriately to shut off debate."[200]

- "Many people out of religious conscience, believe that sexual intimacy is reserved for a husband and wife united in marriage. By this standard, any sex outside of heterosexual marriage is wrong. It is unfair to label such people as 'prejudiced' because of their beliefs. A prejudice is a judgment that someone is in some way inferior because he or she is a member of a certain race, gender or other group. By contrast, judgments about homosexual sex, bisexual sex or premarital heterosexual sex are judgments about the healthfulness or rightness of certain sexual behaviors, rather than about the worth of people."[201]

These "answers to tough questions" characterize homosexual relationships as both unhealthy and wrong and suggest that for those who have a "homosexual orientation," refraining from sex forever may be preferable for "health, moral or religious reasons." They also conceive of "homosexuals" as male: "homosexual and bisexual sex" is equated with anal sex, and lesbians are absent from this discussion.[202]

Abstinence-only programs, in teaching that "safe sex" exists only in the context of marriage, assert that marriage itself is a source of positive social, psychological and other health benefits. Dr. Patricia Sulak, director of Scott & White's sex education program and Dr. Joe McIlhaney, president of the Medical Institute for Sexual Health, both told Human Rights Watch that they promote marriage as a public health issue because people who engage in premarital sex are at risk of both physical and psychological danger, while married people enjoy a range of benefits—including better sex lives than unmarried people.[203] Marilyn Ammon, the executive director of the McLennan County Collaborative Abstinence Project, echoed this position.[204]

Program curricula, as well as materials produced and distributed by abstinence-only programs reinforce the position that heterosexual marriage is the only safe and appropriate context for sex. According to a McCAP pamphlet describing the organization, "married people live longer, have higher incomes and wealth, engage less in risky behavior, eat more healthily and have fewer psychological problems than unmarried people.[205] "Sexuality, Commitment and Family," one of the curricula that McCAP provides to participating schools, includes chapters on "friendship and dating," "marriage" and "family" that present heterosexual relationships and heterosexual marriage as the ideal, teach that the "nuclear family—that consisting of male-female partnership (marriage) plus their offspring" is the "basic unit of human living" and that "[I]deally, our laws and families should all be aimed at assisting the family to remain intact."[206] The Medical Institute's "Building Healthy Futures" instructs that "even youth unfamiliar with the concept of marriage should be introduced to the ideal and taught that marriage is the healthiest context in which to express their sexuality"; lists "same sex attraction" as behavior that increases the risk of sexual activity and therefore sexually transmitted diseases, and teaches that "youth to whom marriage seems an unreachable goal" should be counseled to delay sexual initiation as long as possible, with the goal of convincing them to delay until marriage."[207] The Medical Institute's Change Makers seminars asks participants to reflect on whether there is "enough emphasis on values, relationships and the benefits of marriage" in the educational messages to children.[208]

Proponents of abstinence-only-until-marriage education claim that their programs treat all youth equally, regardless of their sexual orientation, because they give them all the same message, which is abstinence. Dr.

---

[200] Ibid.
[201] Ibid.
[202] Ibid.
[203] Human Rights Watch interview with Dr. Patricia Sulak, May 2, 2002; Human Rights Watch interview with Dr. Joe McIlhaney, May 10, 2002.
[204] Human Rights Watch interview with Marilyn Ammon, April 29, 2002.
[205] McCAP, *Empowering People to Save Sex for Marriage*.
[206] *Sexuality, Commitment and Family: Student Text*, pp. 29-41, 55-65, 93-103.
[207] *Building Healthy Futures*, pp. 19, 21, 46.
[208] The Medical Institute for Sexual Health, *Change Makers Participant Manual*, p. 33.

Patricia Sulak told Human Rights Watch that schools are limited with respect to what they can say about homosexuality, but that her instruction is that "whatever the sexual behavior is, the best and healthiest choice is abstinence."[209] Dr. Joe McIlhaney told Human Rights Watch that he would give the same message to gay and lesbian individuals as he would to others: "if you're going to have sexual activity, limit it to one partner for life."[210]

Neither of the above statements is consistent with the plain language of abstinence-only legislation and program requirements, which require that federally funded programs teach abstinence until heterosexual marriage, or with the content of abstinence-only materials that the Texas abstinence-only programs distribute. They also ignore both the fact that federal law limits the definition of marriage within the meaning of federal abstinence-only legislation to exclude same-sex couples and that same-sex couples cannot yet legally marry in any state in the U.S.[211] The Medical Institute of Sexual Health (Austin), in its *National Guidelines for Sexuality and Character Education*, advises that although homosexuals should be treated with respect, homosexuals might properly choose to refrain from genital sexual activity altogether for "health, moral or religious reasons."[212]

Human Rights Watch considers discrimination on the grounds of sexual orientation, including the criminalization of private, consensual behavior between adults and the denial of civil marriage status to people on the basis of sexual orientation, to violate international human rights standards.[213]

The United Nations Human Rights Committee, the body charged with monitoring compliance with the International Covenant on Civil and Political Rights, has specifically noted that the existence of sodomy laws in the United States is a "serious infringement of private life" and has "consequences . . . . for [the] enjoyment of other human rights without discrimination."[214] The U.N. Commission on Human Rights has expressed concern regarding the criminalization of matters of sexual orientation in any country precisely because it "increases the social stigmatization of members of sexual minorities, which in turn makes them more vulnerable to violence and human rights abuses, including violations of the right to life. Because of this stigmatization, violent acts directed against persons belonging to sexual minorities are also likely to be committed in a climate of impunity."[215]

Human Rights Watch urges the U.S. Congress to enact federal nondiscrimination legislation that explicitly prohibits discrimination on the basis of sexual orientation and gender identity, to bring the U.S. into conformity with international law. This would include repealing the Defense of Marriage Act, which limits marriage under federal law to a legal union between a man and a woman, and provides that no state shall be required to grant legal status to same-sex marriage of another state or to any "right or claim arising from such relationship."[216]

---

[209] Human Rights Watch interview with Dr. Patricia Sulak, May 1, 2002.

[210] Human Rights Interview with Dr. Joe McIlhaney, May 10, 2002. The Medical Institute's guidelines regarding how to answer "tough questions" about homosexuality and bisexuality likewise advise that a "factual and balanced discussion of homosexuality and bisexuality" should mention that "[r]egardless of sexual orientation, the best way for young people to avoid HIV and other STDs is to follow the recommendation made by the U.S. Department of Education's guidebook *AIDS and the Education of Our Children:* ' . . . to refrain from sexual activity until as adults they are ready to establish a mutually faithful, monogamous relationship.'" The Medical Institute for Sexual Health, *National Guidelines for Sexuality and Character Education*, p. 74.

[211] *See* Defense of Marriage Act, Pub. L. 104-199, 110 Stat. 2419 (1996); *see also* Tex. Family Code §§ 2.001 (marriage license cannot be issued to persons of the same sex), 3.401 ("'spouse' means a husband, who is a man, or a wife, who is a woman").

[212] *See* The Medical Institute for Sexual Health, *National Guidelines for Sexuality and Character Education*, p. 74.

[213] *See* Human Rights Watch, *Modern Capital of Human Rights? Abuses in the State of Georgia* (New York: Human Rights Watch, 1996), pp. 23, 155; Human Rights Watch, *Hatred in the Hallways: Violence and Discrimination Against Lesbian, Gay, Bisexual, and Transgender Students in U.S. Schools* (New York: Human Rights Watch, 2001), p. 162.

[214] *Consideration of Reports Submitted by States Parties Under Article 40 of the Covenant*, Human Rights Committee, 53d sess., U.N. Doc. CCPR/C/79/Add.50 (1995), para. 287 (commenting on the United States' initial report).

[215] *Civil and Political Rights, Including Questions of Disappearances and Summary Executions*, para. 77, Commission on Human Rights, 55th sess., U.N. Doc. E/CN.4/1999/39 (January 6, 1999).

[216] Defense of Marriage Act, Pub. L. 104-199, 110 Stat. 2419 (1996).

States should also repeal laws that discriminate on the basis of sexual orientation, including laws that discriminate against couples in same-sex unions, laws that criminalize private consensual conduct between adults of the same sex, and laws and regulations that prevent teachers and service providers from including accurate and nondiscriminatory information to lesbian, gay and bisexual youth in programs of education on sex and sexually transmitted diseases.[217]

VII. LEGAL STANDARDS

Although participation in federally funded abstinence-only programs is voluntary, they represent funding that is difficult and controversial for state and local governments to ignore, especially in times of fiscal constraint.[218] As Leslie Unruh, founder of the National Abstinence Clearinghouse, has noted, "abstinence has become a business," which Unruh estimates has increased by more than 900 programs in recent years.[219]

As a condition of receiving federal abstinence-only funds, abstinence-only programs must censor essential information about condoms as a means to prevent HIV. This prohibition applies even when students and other young people in these programs directly request such information. Federal abstinence-only restrictions distort information regarding existing effective preventive measures and decrease the likelihood that young people and adults will know that using condoms can prevent HIV.

Federally funded abstinence-only programs conflict with fundamental human rights. Of particular concern is their interference with the right of every person to enjoy the highest attainable standard of health. This requires the state to provide health-related education and information to prevent epidemic diseases, and to refrain from censoring, withholding or intentionally misrepresenting health-related information. To be meaningful and effective, information on HIV/AIDS must be accurate and complete.

---

[217] Texas, for example, should repeal Tex. Family Code § 2.001 (prohibiting marriage licenses from being issued to persons of the same sex) and § 3.401 (defining "spouse" as "a husband, who is a man, or a wife, who is a woman"), Tex. Penal Code § 21.06 (penalizing "deviate sexual intercourse with another individual of the same sex"), and Tex. Health & Safety Code § 163.002(8) (recommending that state's model public health education curriculum relating to sexuality or sexually transmitted diseases should include "emphasis, provided in a factual manner and from a public health perspective, that homosexuality is not a lifestyle acceptable to the general public and that homosexual conduct is a criminal offense" under state law).

[218] In 2002, the federal government spent $100 million on abstinence-only programs. While there is no federal program that supports comprehensive sexuality education as such, the CDC's school health education program (described in section VI above), can support school-based education programs that include discussion of both abstinence and condom use. In 2002, the CDC received $50 million for HIV prevention efforts under this program—half as much as the federal government allocated for abstinence-only education. The percentage of these funds that directly supported student education about abstinence and risk reduction through condom use is unclear, as at least some of the CDC HIV prevention funds support abstinence-only programs; and, further, the funds also support a wide range of activities, such as training teachers and school personnel in HIV prevention, monitoring risk behaviors among students, and program evaluation. *See* discussion of CDC HIV/AIDS grant, above.

The Bush Administration has argued for an increase funding for abstinence-only programs to create "parity" with programs that provide contraceptive services to teenagers through Title X of the Public Health Service Act and Medicaid. This argument is flawed because it compares funding for education programs with funding for public health programs that provide medical services, including contraceptive services, and also pap smears, breast exams and other health care services that are increasingly expensive given the rising cost of medical care. *See* Cynthia Dailard, "Abstinence Promotion and Teen Family Planning: The Misguided Drive for Equal Funding," *The Guttmacher Report on Public Policy*, February 2002. Nor does this comparison take into account the harm associated with abstinence-only programs. Ibid.

[219] Scott Williams, "Abstinence Becomes a Business," *Milwaukee Journal Sentinel*, Oct. 9, 2000. Section 510(b) abstinence-only program funding alone supports more than 700 programs nationwide. Mathematica Policy Research Institute, Inc.,*The Evaluation of Abstinence Education Programs Funded Under Title V Section 510: Interim Report* (2002), p. 13. *See also* Peggy Burch, "Just Say 'Not Yet' Lecturer Pushes 'Sexual Revolution' – Abstinence," *The Commercial Appeal*, Oct. 14, 2000, p. G1 (describing "Aim for Success" abstinence-only program, a family business that runs abstinence-only education programs in schools in Texas, Tennessee, Arkansas, Mississippi, Oklahoma, New Mexico, Georgia and Montana).

BEST COPY AVAILABLE

Because HIV/AIDS is a fatal disease that as yet has no cure, the failure of the government to provide HIV/AIDS information may have serious consequences for the right to life. Unjustified limitation on the right to seek, receive and impart information violates the right to freedom of expression. And the dissemination of health information that excludes a certain group of people, in this case persons whose sexual orientation is not addressed in abstinence-only programs, infringes on the right to nondiscrimination and freedom from discrimination in education.

International Law

International human rights law establishes that every person, including every child, has the right to the highest attainable standard of health, the right to life, the right to seek, receive and impart information of all kinds, the right to nondiscrimination and equal protection of the law, and the right to an education. These rights stand alone, but in significant respects as outlined below, are intertwined and reinforce one another.

These rights are enshrined in important international human rights treaties. The United States is a party to some of these, including the International Covenant on Civil and Political Rights (ICCPR). The United States has declared a number of reservations to the ICCPR, principal among these is a reservation that the provisions of the ICCPR are not enforceable in federal or state court without implementing legislation.[220]

Other treaties the U.S. has signed but not ratified include the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the Convention on the Rights of the Child (CRC). While the United States is not specifically bound by the terms of these treaties, as a signatory it has the obligation to refrain from actions that would defeat the treaties' object and purpose.[221]

Many of the rights contained within the major human rights treaties are derived from customary international law—and are applicable whether or not they are part of a country's treaty law—or reflect prevailing international trends. Thus whatever the formal legal status of these instruments within the United States, officials at all levels of government should respect these rights in carrying out the responsibilities of their office.

Right to the Highest Attainable Standard of Health

All individuals have the right to enjoy the highest attainable standard of health, a right guaranteed by the ICESCR,[222] the CRC[223] and the Convention on Elimination of All Forms of Discrimination Against Women (CEDAW).[224] The Committee on Economic, Social and Cultural Rights, the independent panel of experts that monitors rights under the ICESCR and provides authoritative guidance on its provisions, has interpreted the "right to prevention, treatment and control of diseases" set forth in article 12 of the ICESCR to impose a positive obligation on states parties to take steps necessary for the "prevention, treatment and control of epidemic,

---

[220] The Human Rights Committee has refused to accept reservations that effectively deprive individuals of the means to secure their rights. *General Comment 24(52), General Comment on Issues Relating to Reservations Made Upon Ratification or Accession to the Covenant or the Optional Protocols Thereto, or in Relation to Declarations Under Article 41 of the Covenant*, U.N. Human Rights Committee, 52nd sess. , 1989, para. 11. The United States' declarations that the ICCPR is not self-executing denies individuals the means to obtain a remedy for human rights violations prohibited by these treaties if existing federal or state law does not allow them to challenge these violations. Because these declarations effectively deny individuals access to the courts to secure the rights protected by the ICCPR, they are incompatible with the object and purpose of the treaty.

[221] *See* Vienna Convention on the Law of Treaties, art. 18, *concluded* May 23, 1969, 1155 U.N.T.S. 331 (entered into force Jan. 27, 1980). Although the United States has not ratified the Vienna Convention on the Law of Treaties, it regards this convention as "the authoritative guide to current treaty law and practice." S. Exec. Doc. L. 92nd Cong., 1st sess. (1971), p. 1.

[222] ICESCR, G.A. res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 49, U.N. Doc. A/6316 (1966), 993 U.N.T.S. 3, *entered into force* Jan. 3, 1976, art. 12.

[223] CRC, G.A. res. 44/25, annex, 44 U.N. GAOR Supp. (No. 49) at 167, U.N. Doc. A/44/49 (1989), *entered into force* Sept. 2, 1990, art. 24.

[224] CEDAW, G.A. res. 34/180, 34 U.N. GAOR Supp. (No. 46) at 193, U.N. Doc. A/34/46, *entered into force* Sept. 3, 1981, art. 12.

occupational and other diseases," including the "establishment of prevention and education programmes for behaviour-related health concerns such as sexually transmitted diseases, in particular HIV/AIDS, and those adversely affecting sexual and reproductive health."[225]

According to the committee, the right to the enjoyment of the highest attainable standard of health includes the right to information and education concerning prevailing health problems, their prevention and their control.[226] The CRC specifically requires states parties "[t]o ensure that all segments of society, in particular parents and children, are informed, have access to education and are supported in the use of basic knowledge of child health."[227]

The committee, recognizing the importance of access to information, interprets the right to health to include the "right to seek, receive and impart information concerning health issues."[228] In addition, the committee advises that states have a legal obligation to refrain from "censoring, withholding or intentionally misrepresenting health-related information, including sexual education information."[229]

The U.N. Guidelines on HIV/AIDS and Human Rights, published in 1998 by the Office of the United Nations High Commissioner for Human Rights and the Joint United Nations Programme on HIV/AIDS, provide guidance in interpreting international legal norms as they relate to HIV and AIDS. The guidelines recommend that states "ensure that children and adolescents have adequate access to confidential sexual and reproductive health services, including HIV/AIDS information, counseling, testing and prevention measures such as condoms."[230] The guidelines also call on states to "ensure the implementation of specially designed and targeted HIV prevention and care programmes for those who have less access to mainstream programs," including men who have sex with men, due to factors including "physical marginalization."[231]

Information about HIV prevention is readily available and relatively inexpensive, depending on the means of dissemination. As such, providing accurate information about the transmission of HIV and the means of protection against infection is an essential and cost-effective part of addressing the pandemic.

Right to Life

All persons enjoy an inherent right to life, which is guaranteed in article 6 of the ICCPR.[232] Noting that the right to life "should not be interpreted narrowly,"[233] the Human Rights Committee, which monitors compliance with the ICCPR, has observed:

> The expression "inherent right to life" cannot properly be understood in a restrictive manner and the protection of this right requires that States adopt positive measures. In this connection, the Committee considers that it would be desirable for States parties to take all possible measures to

---

[225] *General Comment 14. The Right to the Highest Attainable Standard of Health*, Committee on Economic, Social and Cultural Rights, 22nd sess., 2000, para. 16; *see also* ibid., para. 36 (states must promote "health education, as well as information campaigns, in particular with respect to HIV/AIDS").

[226] See *General Comment 14. The Right to the Highest Attainable Standard of Health*, Committee on Economic, Social and Cultural Rights, paras. 12(b), 16 and note 8.

[227] CRC, art. 24(2)(e).

[228] *General Comment 14. The Right to the Highest Attainable Standard of Health*, Committee on Economic, Social and Cultural Rights, para. 12(b) and note 8.

[229] Ibid., para. 34.

[230] Office of the United Nations High Commissioner for Human Rights and the Joint United Nations Programme on HIV/AIDS, "HIV/AIDS and Human Rights–International Guidelines" (from the second international consultation on HIV/AIDS and human rights, 23-25 September 1996, Geneva), U.N. Doc. HR/PUB/98/1, Geneva, 1998, para. 38(h).

[231] Ibid., para. 38(j).

[232] ICCPR, G.A. res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force Mar. 23, 1976, art. 6.

[233] Human Rights Committee, *General Comment 6* (16th sess., 1982), para. 1.

reduce infant mortality and to increase life expectancy, especially in adopting measures to eliminate malnutrition and epidemics.[234]

A state's failure to provide complete and accurate information about effective means of HIV prevention may have serious consequences for the right to life.

Right to Information

Everyone, including children, has the right to "seek, receive and impart information of all kinds."[235] Access to information also is essential to secure the right to the highest attainable standard of health.[236]

The U.N. Guidelines on HIV/AIDS and Human Rights emphasize the need for states to take affirmative action to provide adequate, accessible and effective HIV-related prevention and care education, information and services.[237] The guidelines specifically call on states to "ensure the access of children and adolescents to adequate health information and education, including information related to HIV/AIDS prevention and care, inside and outside school, which is tailored appropriately to age level and capacity and enables them to deal positively with their sexuality."[238] Similarly, the Committee on the Rights of the Child recommends that "access to information as a fundamental right of the child should become the key element in HIV/AIDS prevention strategies."[239]

Right to Nondiscrimination and Equal Protection, Right to Education, Right to Privacy

All persons have the right to equality before the law and equal protection of the laws. The guarantees of equality before the law and equal protection of the laws prevent a government from arbitrarily making distinctions among classes of persons in promulgating and enforcing its laws.

Under article 26 of the ICCPR, "the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status."[240] The Human Rights Committee interprets article 26 to prohibit discrimination based on sexual orientation.[241]

The U.N. Guidelines on HIV/AIDS and Human Rights advise that states enact antidiscrimination and protective laws to "reduce human rights violations against children in the context of HIV/AIDS" and to "provide for children's access to HIV-related information, education and means of prevention inside and outside school."[242] The guidelines also recommend that "[a]nti-discrimination and protective laws should be enacted to reduce human

---

[234] Ibid., para. 5.

[235] *See* ICCPR, art. 19, CRC, art. 13.

[236] *See General Comment 14, The Right to the Highest Attainable Standard of Health.* Committee on Economic, Social and Cultural Rights, para. 12 and note 8.

[237] Office of the United Nations High Commissioner for Human Rights and the Joint United Nations Programme on HIV/AIDS, "HIV/AIDS and Human Rights–International Guidelines" (from the second international consultation on HIV/AIDS and human rights, 23-25 September 1996, Geneva), U.N. Doc. HR/PUB/98/1, Geneva, 1998,para. 38(b).

[238] Ibid., para. 38(g).

[239] United Nations High Commissioner for Human Rights, Committee on the Rights of the Child, general discussion on "Children living in a world with HIV/AIDS," September 21 – October 9, 1998.

[240] ICCPR, art. 26. A related provision of the ICCPR provides that states may not discriminate in securing the fundamental rights and liberties guaranteed in the convention. ICCPR, art. 2. The United Nations Human Rights Committee, the body charged with monitoring compliance with the ICCPR, determined in a 1994 case that an Australian law banning sexual contact between consenting adult men was a violation of Australia's obligations as a party to the ICCPR. This decision concluded that the discrimination provision of the ICCPR should be understood to prohibit discrimination on the basis of sexual orientation. *See* Toonen vs. Australia, U.N. Human Rights Committee, CCPR/C/50/D/488/1992, April 4, 1994.

[241] *See Views of the Human Rights Committee under article 5, paragraph 4, of the Optional Protocol to the International Covenant on Civil and Political Rights concerning Communication No. 488/1992: Australia,* para 8.7, Human Rights Committee, 50th sess., U.N. Doc. CCPR/C/50/D/488/1992 (April 4, 1994).

[242] Office of the United Nations High Commissioner for Human Rights and the Joint United Nations Programme on HIV/AIDS, "HIV/AIDS and Human Rights – International Guidelines (from the second international consultation on HIV/AIDS and human rights, 23-25 September 1996, Geneva), U.N. Doc. HR/PUB/98/1, Geneva, 1998, para. 30(g).

rights violations against men having sex with men, including in the context of HIV/AIDS, in order, inter alia, to reduce the vulnerability of men who have sex with men to infection by HIV and to the impact of HIV/AIDS. These measures should include providing penalties for the vilification of people who engage in same-sex relationships, giving legal recognition to same-sex marriages and/or relationships . . ."[243]

International law guarantees the right to an education and to freedom from discrimination in education.[244] The Committee on Economic, Social and Cultural Rights has stated: "The prohibition against discrimination enshrined in article 2(2) of the [ICESCR] is subject to neither progressive realization nor the availability of resources; it applies fully and immediately to all aspects of education and encompasses internationally prohibited grounds of discrimination."[245]

National Law

The First Amendment to the United States Constitution provides strong protection for freedom of expression, stating that "Congress shall make no law . . . abridging the freedom of speech."[246] This Constitutional guarantee of free speech extends to children and protects the right to receive information as well as to speak out.[247] The government may generally impose content-based restrictions on speech—even those imposed in the name of protecting youth—only where it can establish a compelling interest in regulating speech and that its regulations are narrowly tailored to serve this interest.[248] While the government may impose more stringent controls on speech with respect to youth than adults, children are nonetheless entitled to a "significant measure of First Amendment Protection, and only in relatively narrow and well-defined circumstances may government bar public dissemination of protected materials to them."[249]

The U.S. Supreme Court has recognized that states and local school boards have broad discretion to manage their affairs and to "establish and apply their curriculum in such a way as to transmit community values."[250] While "the discretion of the States and local school boards in matters of education must be exercised

---

[243] Ibid, para. 30(h).

[244] Convention on the Rights of the Child, articles 2(1), 2(2), 28(1); International Covenant on Economic, Social and Cultural Rights, articles 2(2), 13.

[245] *General Comment 13. The Right to Education*, Committee on Economic, Social and Cultural Rights, para. 13. International human rights bodies have held that laws criminalizing consensual sex between adults of the same sex, such as the law that is incorporated into Texas' model health curriculum, violate article 17 of the ICCPR, which guarantees the right to privacy. *See, for example, Views of the Human Rights Committee under article 5, paragraph 4 of the Optional Protocol to the International Covenant on Civil and Political Rights concerning Communication No. 488/1992: Australia*, para. 9, Human Rights Committee, 50th Sess., U.N. Doc. CCPR/C/50/D/488/1992 (April 4, 1994).

[246] U.S. Constitution, amend. 1. The First Amendment applies to both federal and state action. *See Gitlow v. New York*, 268 U.S. 652, 666 (1925).

[247] *See Board of Education v. Pico*, 457 U.S. 853, 866-72 (1982) (plurality opinion) (local school board cannot remove books from school library for political or partisan reasons without violating students' constitutional right to receive information); *Tinker v. Des Moines School District*, 393 U.S. 503, 511 (1969) (constitutional right to freedom of expression extends to minors).

[248] *Perry Educ. Ass'n v. Perry Educators' Ass'n*, 460 U.S. 37 (1983). Abstinence-only programs may narrowly fall within Supreme Court jurisprudence permitting viewpoint discrimination in certain government-funded programs. *See, for example, Rust v. Sullivan*, 500 U.S. 173 (1991); *but see Rosenberger v. Rector and Visitors of the University of Virginia*, 515 U.S. 819 (1995) and *Legal Services v. Velazquez*, 531 U.S. 533 (2001). These programs nonetheless suppress speech in a manner that is deeply at odds with basic First Amendment norms protecting the free flow of honest and accurate information, *see Board of Education v. Pico* 457 U.S. 853 (1982) and the public freedom of mind, *see generally Stanley v. Georgia*.394 U.S. 557 (1969).

[249] *Erznoznick v. City of Jacksonville*, 422 U.S. 205, 212-14 & n. 11 (1975) (invalidating ordinance prohibiting nudity in drive-in movies in part based on rejection of argument that ordinance was a valid exercise of police power to protect children; also noting that age is a relevant factor in determining child's capacity for individual choice that presupposes First Amendment guarantees); *see also Bolger v. Youngs Drug Products Corp.*, 463 U.S. 60, 74-75 & n. 30 (noting that statute that prohibited unsolicited mailing of contraceptive advertisements "clearly denies information to minors, who are entitled to a 'significant measure of First Amendment Protection'").

[250] *Board of Education v. Pico*, 457 U.S. 853, 864 (1982).

in a manner that comports with the transcendent imperatives of the First Amendment,"[251] public schools may, in some cases, impose "reasonable restrictions" on student expression and censor speech that the government could not censor outside the school setting.[252] A federal district court has held that minors have a substantial interest in receiving accurate information about HIV/AIDS prevention, and therefore a state agency could not justify its decision to refuse to post advertisements that promoted the use of condoms to prevent the spread of HIV/AIDS by claiming that it needed to shield children from this information.[253]

The U.S. Constitution guarantees all persons equal protection of the laws.[254] As the Supreme Court has recognized, the right to equal protection "must coexist with the practical necessity that most legislation classifies for one purpose or another, with resulting disadvantage to various groups or persons."[255] Courts examine closely laws that discriminate based on race, national origin, religion, sex and illegitimacy, and require the state to establish a compelling justification for laws that impose burdens on fundamental rights (such as the right to vote).[256] Where states discriminate based on other classifications, including based on sexual orientation, they must meet the lesser standard of showing only that there is at least a rational basis for the discrimination.[257]

Although the Supreme Court has held that some intimate personal choices deserve protection under the Constitutional right to privacy as "fundamental rights," it has not accorded such protection to same-sex relationships or same-sex marriage.[258] But even when the state distinguishes among people in ways that do not

---

[251] Ibid.; *see also West Virginia Board of Education v. Barnette*, 319 U.S. 624, 637 (1943) (holding that public school student could not, under the First Amendment, be compelled to salute the flag and noting that boards of education must exercise their discretion within the limits of the Bill of Rights. "That they are educating the young for citizenship is reason for scrupulous protection of Constitutional freedoms of the individual, if we are not to strangle the free mind at its source and teach youth to discount important principles of our government as mere platitudes."); *Tinker v. Des Moines School District*, 393 U.S. 503 (1969); *see also Edward v Aguillar*, 482 U.S. 578 (1987) (invalidating statute that prevented schools from teaching evolution unless accompanied by instruction in "creation science" because, in seeking to employ the government's symbolic and financial support, it violated First Amendment Establishment Clause).

[252] *Hazelwood School Dist. v. Kuhlmeier*, 484 U.S. 260, 266-67 (1988). Schools may also regulate student speech in school-sponsored activities more broadly than other student speech in schools. *Compare Bethel School District No. 403 v. Fraser*, 478 U.S. 675, 685 (1986) (school need not tolerate vulgar speech at school sponsored function inconsistent with its "basic educational mission") and *Hazelwood School Dist.* 484 U.S. at 273 (school may censor articles in school-sponsored newspaper if action is "reasonably related to legitimate pedagogical concerns") with *Tinker*, 393 U.S. at 509 (student expression may be curtailed or censored only where it would "materially and substantially interfere with the requirements of appropriate discipline in the operation of the school").

[253] *AIDS Action Committee of Massachusetts, Inc. v. Massachusetts Bay Transportation Authority*, 849 F. Supp. 79 (D. Mass. 1993), *aff'd*, 42 F.3d 1 (1st Cir. 1994) (minors' interest in receiving information about use of condoms to prevent HIV outweighed state's interest in insulating them from this information by restricting display of advertisements about condoms); *cf. Bolger*, 463 U.S. at 74 & n. 30 (observing that "it cannot go without notice that adolescent children apparently have a pressing need for information about contraception" as data indicate that a significant number of teenagers are sexually active and become pregnant unintentionally).

[254] U.S. states are bound by the Equal Protection clause of the Fourteenth Amendment, which provides that "[n]o state shall . . . deny to any person within its jurisdiction the equal protection of the laws." U.S. Constitution, amend. XIV, § 1. The federal courts have interpreted the Due Process clause of the Fifth Amendment to require the federal government to observe substantially similar norms of equal treatment. *See, for example, Bolling v. Sharpe*, 347 U.S. 497 (1954) (invalidating racial segregation in District of Columbia public schools under the Due Process clause of the Fifth Amendment). The Due Process clause provides that "[n]o person shall be . . . deprived of life, liberty, or property, without due process of law." U.S. Constitution, amend. V.

[255] *Romer v. Evans*, 517 U.S. 620, 631 (1996).

[256] Education is not a fundamental right protected by the U.S. Constitution. *San Antonio Independent School District v. Rodriguez*, 411 U.S. 1 (1973).

[257] Rational basis review is a deferential standard under which there is no constitutional violation if "there is any reasonably conceivable state of facts" that would provide a rational basis for the government's conduct. *FCC v. Beach Communications, Inc.*, 508 U.S. 307, 313 (1993).

[258] In *Bowers v. Hardwick*, 478 U.S. 186 (1986), the U.S. Supreme Court upheld Georgia's sodomy statute, holding that the U.S. Constitution does not protect consensual sexual relations between members of the same sex in the privacy of their own home. The Court has held that state may not enact laws that interfere with personal decisions to marry a person of the

BEST COPY AVAILABLE

implicate fundamental rights or create "suspect" classifications, it cannot act out of prejudice or out of a desire to harm a politically unpopular group.[259]

IX. CONCLUSION

On their website, the Centers for Disease Control maintain a fact sheet on HIV/AIDS among American youth. Their logo reminds the reader that "HIV Prevention Saves Lives;" the fact sheet itself stresses the importance of providing comprehensive information to young people about how to protect themselves from HIV infection, including information about condom use. The CDC's advice is consistent with that of the Institute of Medicine and the National Institutes of Health, other federal government institutions that set U.S. public health standards.

Since 1997, the U.S. Congress has allocated more than $350 million—$100 million in fiscal year 2002 alone—to support abstinence-only-until-marriage programs that cannot, by law, follow this advice. Indeed, the U.S. Department of Health and Human Services, which administers federal abstinence-only programs, cannot grant these funds to abstinence-only programs that would pursue DHHS' own stated objective to "increase the proportion of adolescents who . . . use condoms if sexually active."

Federally funded abstinence-only programs, in keeping with their federal mandate, deny children basic information that could protect them from HIV/AIDS infection and discriminate against gay and lesbian children. In so doing, these programs not only interfere with fundamental rights to information, to health and to equal protection under the law. They also place children at unnecessary risk of HIV infection and premature death. In the case of HIV/AIDS, what they don't know may kill them.

---

opposite sex, to have children, or not to have children. *See Loving v. Virginia*, 388 U.S. 1, 12 (1967) (invalidating law against racial intermarriage); *Skinner v. Oklahoma*, 316 U.S. 535 (1942) (invalidating state law providing for sterilization of certain repeat felons); *Cleveland Board of Education v. LaFleur*, 414 U.S. 632 (1974); *Griswold v. Connecticut*, 381 U.S. 479 (1965) (invalidating state statute criminalizing use of contraceptives); *Roe v. Wade*, 410 U.S. 113 (1973) (holding that only a compelling state interest can justify state regulation of a decision to end a pregnancy).

[259] *See Romer v. Evans*, 517 U.S. 620 (1996) (holding that amendment to Colorado constitution prohibiting all legislative, judicial or executive action protecting against discrimination on the basis of sexual orientation violated the U.S. Constitutional guarantees of equal protection).

ACKNOWLEDGMENTS

This report was researched and written by Rebecca Schleifer, researcher, HIV/AIDS and Human Rights Program. Joanne Csete, director, HIV/AIDS and Human Rights Program; Jamie Fellner, U.S. program director; Dinah PoKempner, general counsel; James Ross, senior legal advisor; and Ian Gorvin, consultant to the Program Office edited the report. Patrick Minges, Fitzroy Hepkins and Tommy Yeh provided production assistance.

We thank the teachers, students and counselors who shared their experiences with us, some of whom are acknowledged by name in the report. We are also grateful for the advice and support of the members of the "Rights, Respect, Responsibility"® Coalition in Waco, Texas, and of the National Coalition Against Censorship and its Committee on Sex and Censorship.

We are grateful for the assistance of the John M. Lloyd Foundation, the Ruben and Elisabeth Rausing Trust, and an anonymous donor in supporting this work.

Human Rights Watch is dedicated to protecting the human rights of people around the world.

We stand with victims and activists to prevent discrimination, to uphold political freedom, to protect people from inhumane conduct in wartime, and to bring offenders to justice.

We investigate and expose human rights violations and hold abusers accountable.

We challenge governments and those who hold power to end abusive practices and respect international human rights law.

We enlist the public and the international community to support the cause of human rights for all.

Human Rights Watch
350 Fifth Avenue 34th Floor
New York, N.Y. 10118-3299
http://www.hrw.org

BEST COPY AVAILABLE

U.S. Department of Education
Office of Educational Research and Improvement (OERI)
National Library of Education (NLE)
Educational Resources Information Center (ERIC)

REPRODUCTION RELEASE

(Specific Document)

I. DOCUMENT IDENTIFICATION:

Title: Ignorance Only: HIV/AIDS, Human Rights and Federally Funded Abstinence-Only Programs in the United States. Texas: A Case Study	
Author(s):	
Corporate Source: Human Rights Watch	Publication Date: Sept 2002

II. REPRODUCTION RELEASE:

In order to disseminate as widely as possible timely and significant materials of interest to the educational community, documents announced in the monthly abstract journal of the ERIC system, *Resources in Education* (RIE), are usually made available to users in microfiche, reproduced paper copy, and electronic media, and sold through the ERIC Document Reproduction Service (EDRS). Credit is given to the source of each document, and, if reproduction release is granted, one of the following notices is affixed to each document.

If permission is granted to reproduce and disseminate the identified documents, please CHECK ONE of the following three options and sign at the bottom of the page.

The sample sticker shown below will be affixed to all Level 1 documents

PERMISSION TO REPRODUCE AND DISSEMINATE THIS MATERIAL HAS BEEN GRANTED BY

_____

_____

TO THE EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC)

1

Level 1 ☑

Check here for Level 1 release, permitting reproduction and dissemination in microfiche or other ERIC archival media (e.g., electronic) *and* paper copy.

The sample sticker shown below will be affixed to all Level 2A documents

PERMISSION TO REPRODUCE AND DISSEMINATE THIS MATERIAL IN MICROFICHE, AND IN ELECTRONIC MEDIA FOR ERIC COLLECTION SUBSCRIBERS ONLY, HAS BEEN GRANTED BY

_____

_____

TO THE EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC)

2A

Level 2A ☐

Check here for Level 2A release, permitting reproduction and dissemination in microfiche and in electronic media for ERIC archival collection subscribers only

The sample sticker shown below will be affixed to all Level 2B documents

PERMISSION TO REPRODUCE AND DISSEMINATE THIS MATERIAL IN MICROFICHE ONLY HAS BEEN GRANTED BY

_____

_____

TO THE EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC)

2B

Level 2B ☐

Check here for Level 2B release, permitting reproduction and dissemination in microfiche only

Documents will be processed as indicated provided reproduction quality permits.
If permission to reproduce is granted, but no box is checked, documents will be processed at Level 1.

I hereby grant to the Educational Resources Information Center (ERIC) nonexclusive permission to reproduce and disseminate these documents as indicated above. Reproduction from the ERIC microfiche or electronic media by persons other than ERIC employees and its system contractors requires permission from the copyright holder. Exception is made for non-profit reproduction by libraries and other service agencies to satisfy information needs of educators in response to discrete inquiries.

Sign here, → please

Signature: Printed Name/Position/Title: Director of Publications

Organization/Address: Human Rights Watch
1630 Connecticut Ave, NW Ste 500
Washington, DC 20009

Telephone: 202-612-4342 FAX:

E-Mail Address: Murdocp@hrw.org Date: 12/23/02

III. DOCUMENT AVAILABILITY INFORMATION (FROM NON-ERIC SOURCE):

If permission to reproduce is not granted to ERIC, or, if you wish ERIC to cite the availability of these documents from another source, please provide the following information regarding the availability of these documents. (ERIC will not announce a document unless it is publicly available, and a dependable source can be specified. Contributors should also be aware that ERIC selection criteria are significantly more stringent for documents that cannot be made available through EDRS.)

Publisher/Distributor:
Address:
Price:

IV. REFERRAL OF ERIC TO COPYRIGHT/REPRODUCTION RIGHTS HOLDER:

If the right to grant this reproduction release is held by someone other than the addressee, please provide the appropriate name and address:

Name:
Address:

V. WHERE TO SEND THIS FORM:

Send this form to the following ERIC Clearinghouse:

ERIC Counseling & Student Services
University of North Carolina at Greensboro
201 Ferguson Building
PO Box 26171
Greensboro, NC 27402-6171